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ABSTRACT

Different types of existing regulations and legislation for correspondence education in France, West Germany, India, the United Kingdom, and the United States are reviewed for the benefit of other countries developing policies. For each country surveyed, four sections are provided in the report: a brief description of the educational system, as context for correspondence education; the place of correspondence education; legislation and regulation affecting correspondence education; and a short summary of how the regulation and legislation make correspondence education institutions reputable and responsible. The four main conclusions of the study are: (1) legislation and regulations can be either directed toward correspondence study or concern a variety of goods and services, including correspondence study (consumer protection); (2) several types of legislation and regulation exist (national or regional legislative, public regulatory agency, and legislation concerning private institutions exclusively); (3) accreditation provides another type of control; and (4) there are three main approaches to the consumer protection needed in correspondence education (commercial standards enforceable by law, consumer pressure groups, and government monitoring bodies). Guidelines are provided for developing countries wanting to improve correspondence education. A bibliography, directory of organizations, and a brief note on the nature of correspondence education are appended. (MSE)

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Regulations and Legislation regarding Correspondence Education

A survey of five countries with recommended guidelines for developing countries

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Prepared for the United Nations Educational, Cultural and Scientific Organisation (UNESCO) on behalf of the International Council for Correspondence Education (ICCE) by Robert Gunning MBA LLB
B.G. Consultants

London,
31st March 1978

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Appendix A Bibliography and Names and Addresses of Organisations.

Appendix B The Nature of Correspondence Education.

Introduction

This report has been prepared for the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and concerns the regulations and legislation which affect correspondence education in five selected countries.

The aim of the report, as contained in the brief given to the author, is:

> "providing those responsible for correspondence education in developing countries with information on the different types of existing regulations and legislation relating to correspondence education and to set out for them guidelines along which they may prepare their own national regulations and legislation in order to protect the correspondence education student."

The approach has been to provide a well-informed and practical study from which those responsible for education in developing countries can grasp the essential principles of control in order to protect the correspondence student. It does not, and probably should not, claim to cover every piece of legislation which concerns, directly or indirectly, a student studying by correspondence. For example, there may well be laws in any one country which, once in a while, would be relevant in a case involving a dispute between a correspondence student and a correspondence teaching establishment. Such laws are not dealt with in this study.

Terminology

The term "correspondence education" is not the best one to describe the type of teaching or education with which this report is concerned. In his study "An inquiry into correspondence educating processes" Mr. Ripley Sims distinguishes between contiguous and non-contiguous learning environments.(1) These may be defined as follows:

A contiguous learning environment involves classroom learning and is essentially face-to-face tuition.

A non-contiguous learning environment involves non-classroom learning and is essentially non-classroom tuition.

The difference between them is the means of communication and we tend to label non-contiguous learning environments as "home study", "correspondence study", "correspondence education", "independent study", "distance education". The important point is that we are concerned with protecting students who do not physically attend a classroom and face a live teacher. Rather, they study at home, by means of instruction sent by post or transmitted on radio or television. There will seldom by a relationship with other students doing the same course with the same organisation.

Furthermore, Mr. Sims correctly emphasises that contiguous and non-contiguous education methods both have the same objectives in view and represent only different approaches to attaining these same objectives. If we think of a correspondence student as both a student and also a consumer in society we can better appreciate the approach which has been adopted in this study.

(1) This study was made under a contract to UNESCO.

In this study the term "correspondence education" embraces all forms of non-contiguous education and the term "correspondence institution" includes any organisation offering correspondence education. Appendix B explains the nature of correspondence education.

Methodology

The form specified for the work was as follows:

(a) Categorise different social, administrative and educational systems, taking into account the study made by the ICCE on typology of Correspondence Education.

(b) Select one country from each category.

(c) Contact an ICCE member in each selected country to obtain information relating to legislation and regulations on Correspondence Education, Along with a summary description on how the legislation and regulations make Correspondence Education institutions reputable and responsible.

The countries selected as subjects in the report are France, German Democratic Republic, India, United Kingdom and the United States of America. Chapter 1 describes the categorisation used. ICCE members were contacted in each of the countries involved.

Because each one of these countries is very different in its social, administrative and educational framework, it is important to place correspondence education in an overall context of education and to briefly describe the existing educational framework in each one of the countries. For each country there are four main sections:

(a) A brief description of the educational system

(b) The place of correspondence education

(c) Legislation and Regulation affecting correspondence education

(d) A short summary of how the regulation and legislation make correspondence education institutions reputable and responsible.

Postal questionnaires have been used to identify certain pieces of information and these are contained in Appendices A and B.

Grateful acknowledgements are due to the following correspondents who so kindly assisted with the collection of information:

France:	Mme. G. Rousseau, Centre National de Tele-Enseignement
GDR:	Prof. Dr. Sc. H. Mohle, Karl Marx University
India:	Prof. Bahkshish Singh, Punjabi University
United States of America:	Mr. John Beekman, International Correspondence Schools
	Mr. Habeeb Ghatala, Weber State College

Thanks are also due to Miss J. McCarthy, of the University of London, who assisted with translations.

Opinions expressed are those of the author, not of UNESCO.

Conclusions and Recommended Guidelines

The four main conclusions of this study are:

A. That there are several kinds of legislation and regulation which control correspondence education. These may be classified as follows:

(a) those which are specifically directed at correspondence education

(b) those which concern a wide variety of goods and services, including educational services. Legislation of this type is sometimes called consumer protection legislation.

B. Of the legislation and regulation specifically concerning correspondence education we can identify several types.

First, there is legislation passed by legislative assemblies at National or regional level which creates universities or other institutions permitted to conduct correspondence courses. Examples are found in all the countries of this study but specific examples are the Open University (the UK) and the Centre National de Tele Enseignement (France).

Second, there are regulations issued by departments of government or bodies funded by public money which recommend or propose standards of operation for institutions giving correspondence education. Examples are the University Grants Commission in India and the Ministry of Education in France. In general, institutions financed by public funds are considered self-regulating and are presumed to act in the public interest.

Third, there is legislation enacted at national or regional level which specifically prohibits certain conduct by correspondence institutions and/or requires certain procedures to be followed. These almost exclusively concern only private institutions. Examples are:

- In the USA, State Laws requiring correspondence institutions to fulfil certain conditions such as being licensed and being bonded.

- In France, laws which prohibit certain conduct by institutions and introduce a system of monitoring.

The important matters with which these laws are concerned are:

(a) Advertising and other methods of attracting students especially the name and image presented by the institute. Also the activities of salesmen or agents.

(b) The contractual relationship between the student and the institution especially concerning a period of delay before a contract becomes valid, the nature of the course of instruction and the terms of cancellation, especially refund policies.

(c) Whether or not a student is eligible for the course of study.

(d) the financial standing of the institution and its ability to incur liabilities.

(e) the value and standing of the qualifications issued by the institution.

(f) the powers and duties of any bodies created to supervise correspondence education.

(g) the jurisdiction of courts in connection with legal action between an institution and a student.

C. Another system of control is accreditation, which has been adopted in the USA and in the UK. Accreditation may be mandatory or voluntary.

Accreditation is an alternative to inspection and recognition by Government bodies. The effectiveness of accreditation depends on two main factors: the stringency of the standards required of the institutions and the acceptance by the public of the accrediting organisation.

Accrediting organisations stipulate standards of practice and the most important of these cover the following:

(a) The promotion and advertising of the institute and of its courses, especially the use of salesmen.

(b) The contractual relationships between institutions and students especially the obligations of each, the terms under which cancellation is allowed and the policy of refunding money paid.

(c) The eligibility of students and the value of the course of studies.

(d) The tuition policies.

(e) Any advice given to students.

(f) The eligibility of institutions for accreditation.

(g) The systems of administration.

(h) The qualifications of staff.

D. The need for consumer protection is becoming more and more recognised but has been developed only in the more advanced industrial societies. There are three main approaches to consumer protection by legislation:

(a) the creation of commercial standards enforceable at law. Examples are the Consumer Credit Act 1974 in the UK and the Truth in Lending Act in the USA.

(b) consumer pressure groups which analyse goods and services and take action to ensure fair standards. Often their opinions are widely published.

(c) government "watchdog" bodies which continually review the activities of private enterprises. Their recommendations are effective because of legal powers to prohibit offensive conduct. The best example is the Federal Trade Commission in the USA.

Guidelines for Developing Countries

Developing countries are, almost by definition, those in which income per capita is low, the economy is semi-industrialised, literacy levels are below 90% of the population and education concentrates on primary and secondary levels. The future development of these nations will include mass education up to the age of 17 or 18, the need to qualify more people in technical and professional subjects, and the provision of more vocational and higher education.

Correspondence education, whether conducted by the public sector or private institutions, can provide a valuable role in improving educational opportunities. There are five fundamental areas which should be considered in protecting students. These are:

- the eligibility of students to take courses
- the contractual relationship between the institution and the student
- the standards of teaching and administration
- the inspection of teaching institutions
- extra territorial teaching.

Each of these is considered.

I Eligibility of students

(a) Students should not be accepted for courses unless three conditions are met:

a) they are suitably qualified

b) they can afford the course without undue hardship

c) there is evidence that they are motivated sufficiently to complete it with a fair chance of success.

In this way students will not be encouraged to waste their time, money and energies pursuing studies for which they are not competent. The methods to achieve this could include evidence of prior study in suitable subjects, personal references concerning ability and financial standing and a contract which clearly spells out the nature of the course.
Such conditions should be explained in all advertising and promotional material.

(b) Students should have the option to drop out for personal, family or aptitude reasons on a basis which safeguards the student from undue financial hardship and the institution from financial loss.

II Contractual Relationship

(c) All students should sign a written contract with the institution which is legally binding on both parties and the student should retain a copy of the contract.

(d) The contract should include the title and a description of the course, a study plan, the cost of the course including books and all materials required, the methods of payment, the conditions under which the contract can be terminated, the policy regarding refunds of money paid, the cost of any credit offered, and the name of an arbitration body.

(e) The method of payment should be carefully designed so that:

a) students cannot avoid legal obligations to pay

b) institutions cannot unreasonably retain monies after a contract has been fairly terminated.

(f) Students should have the right to terminate the contract in two specific cases:

a) within 14 days of receiving the first lesson

b) where there is evidence that for personal, medical or family reasons it is not possible to complete the course.

In these cases a fair system of refunds should be enforced, bearing in mind the administration costs incurred by the institution.

(g) Contracts which fail to meet these conditions should be invalid.

(h) Where an enrolment is obtained after a personal visit to the student by a representative of the institution, then there should be a period of reflection (e.g. 72 hours) before the enrolment is valid. During this time the student should have the right to cancel the contract at no cost.

Special care may be needed over the position of minors depending on the legal framework of each country.

III Standards of Teaching and Administration

(i) Those responsible for preparing courses should be suitably qualified in the subject.

(j) The qualifications required of the academic staff responsible for supervising courses should equate to those of a qualified teacher or a graduate of a recognised university.

(k) A maximum period allowed for correcting students' work should be laid down. Failure to comply would render the contract voidable.

(l) All institutions should maintain specified records concerning applications, enrolments, student progress, staff records, financial information and any other relevant to the sound management of a business organisation.

IV Inspection

(m) An inspection body, financed by public funds, should be created and empowered to inspect all institutions whether public or private and "accredit" them, and grant recognition that they comply with certain standards.

Inspections should be every three years (or sooner), and the cost of inspections should be borne by public funds.

(n) The inspection should include study materials, study methods, correction procedures, administrative systems, accounting records and a file of all complaints received with the action taken.

V Extra-territorial Teaching

One issue which is becoming increasingly important and creates several problems of control concerns the position of correspondence institutions which are not domiciled or resident in the country from which they enrol students. It is not desirable to prohibit students in country A from enrolling in a correspondence course from country B, but some method of control is in the best interests of students.

The recommended solution to tackle the problem is to establish international recognition of correspondence institutions; this could be based on a system whereby, in each country, there is accreditation (preferably mandatory) and accrediting bodies recognise each other. It would be necessary to monitor the standards of the accreditation bodies.

However, this system would only be fully effective if all countries adopted mandatory accreditation, as the following table shows:

Situations under which International Recognition of Accreditation could be effective

Assume that there are two countries A where the students live and B where the correspondence institution "X" operates.

			Country A		
			System of Accreditation		No system of Accreditation
			Mandatory	Voluntary	
Country B	Accreditation Mandatory	X accredited	Yes	Yes	Doubtful
	Accreditation Voluntary	X accredited	Yes	Yes	Doubtful
		X not accredited	No	No	No
	No Accreditation	X not accredited	No	No	No

'Yes' means that international recognition could be effective.

For those countries where accreditation is not adopted another, but less satisfactory solution is suggested. This would involve each institution wishing to enrol students in a foreign country obtaining permission to do so from a suitable authority in that country, e.g. the Education Department, Ministry of Education or other body which would have the responsibility for ensuring educational and ethical standards. Such permission should be acknowledged in all printed matter produced by the institution.

Finally, the philosophy of controlling correspondence institutions should be one which allows for competition, innovation and which encourages educational success. It should not impede the formation of correspondence institutions, whether public or private, providing they can satisfy the various study needs of students. Bodies created to inspect institutions should work from the standpoint of assisting institutions to meet standards rather than seeking to close them.

No guidelines are recommended concerning advertising and promotion for two reasons. First, commercial standards vary from country to country and it is not considered the purpose of this study to suggest general standards of advertising and promotion; these are determined by national temperament and cultural factors. Secondly, if the guidelines recommended in this study are adopted, there will be constraints imposed on advertising and promotional material. It is easy to attract enquiries from prospective students but many of them may not be eligible for courses, and in this sense the advertising is wasteful. Advertising which reflects the guidelines should automatically be honest and objective.

Chapter 1

Categories of different social, administrative, and educational systems

1.1 Introduction

Ripley Sims in his study "An Inquiry into Correspondence Educating Processes" states:

> "The broad goals and specific objectives of education systems vary over an indescribably wide spectrum, not only from nation to nation, but also within the nations as well." (P.5)

Many factors determine the nature of education systems and the most frequent questions which need to be asked are:

(a) What should be taught and to what end?

(b) What does the educating society hope to achieve through its educational activities?

(c) What forms of administrative controls are thought necessary to make sure that the educational system will play the role it has been assigned?

(d) What is the nature and number of institutional programmes and instructional programmes that are employed to achieve the ends sought?

(e) What types of opportunities, and how many opportunities, are provided for what classes of individuals?

1.2 Categories

One thing is clear: educational systems do not exist in a vacuum but are an extension or a part of the society in which they exist and which they serve. Thus, any categorisation must start with the different levels of society, and we can broadly distinguish several levels:

(a) Pre-industrial societies. These depend mainly on an agricultural economy and often there are strong family, tribe or caste structures. The legal and administrative systems are rudimentary and education is confined mostly to instruction in elementary subjects which equip children to live and work in a simple economic system. In such societies there is little need for correspondence education.

(b) Semi-industrial societies. These may be ruled by one or two groups or families and characterised by extremes of wealth and poverty. Legal and administrative systems are more developed but most people have no meaningful vote. Education is mostly elementary, is not compulsory, and can vary from region to region within a single country.

On the other hand, some semi-industrial societies have well established administrative and legal systems but the literacy rate is often less than 50% and education for most people is up to secondary level. We have selected India as an example of a semi-industrial society for the purposes of this study.

(c) Advanced industrial societies where government is elected through democratic elections at both central and regional level. Administrative systems are important in regulating society. The legal system is formalised and each person is equal under the law.

In some of these countries, education is part of a national plan and the objectives and methods of education are determined at the highest political level. All education is provided by the State. An example, for this study, is the German Democratic Republic.

In other countries educational objectives are less well defined. Although education is made compulsory up to the ages of 16 to 18, it is left to the individual to decide how much he wishes to take after that age and by which method. In this study we have selected three such countries; the USA, the United Kingdom and France.

Of course there are other countries which could have been selected and excluding them is in no way a reflection on their education systems. But there are several particular reasons for selecting the UK, the USA and France.

First, they are all advanced industrial nations, with well established political and economic systems. There are also significant differences in the method of government; the UK is a small country governed by a parliamentary democracy, France a medium sized country established as a republic and the USA a very large country governed as a federation.

The second reason is that whereas the UK and France have established mixed economies i.e. an important public sector in addition to a private sector, the USA is predominantly a private sector economy.

Third, in the field of education the UK has a strong system of State education but allows private education; the USA encourages many different forms of education and has no Federal system; France maintains a measure of State control over education on a national basis but allows private institutions.

Finally, it was considered practical, where possible, to select countries whose language was familiar to the author.

Chapter 2

United Kingdom

2.1 Introduction

Until the 19th century the strongest influence on the development of education from primary level to university level was the Church. This was for two main reasons. First, it had provided the only medium for teaching reading and writing; second, the members of the Church were sympathetic to the conditions of the poor and viewed education as a means to alleviate poverty and hardship. Thus elementary education was in Parish Schools, Charity Schools, Sunday Schools (for children at work during the week) and the monitorial schools. Some non-denominational schools also existed. Secondary education was concentrated in the Grammar Schools and Public Schools which were also religious foundations. University education was established about 1250 at Oxford and Cambridge and retained a religious bias until the 19th century. Technical education came mainly through trade guilds and the apprenticeship system.

It was the social consequences of the Industrial Revolution (from 1800) which led to Acts of Parliament designed to transform the educational system. The main developments were:

The Act of 1870 established State Schools to ensure the teaching of reading, writing and arithmetic - virtually Primary Education. Local Authorities administered the Schools through Boards.

The Act of 1902 extended the school leaving age, made permissive to Local Authorities the provision of Secondary Education of various types, and set up the Board of Education in the Government.

The Act of 1921 made the provision of Secondary Education compulsory, the provision of Further Education permissive, and raised the school leaving age. Local Education Committees were established.

The Act of 1944 made the provision of Further Education statutory and the school leaving age was again raised. This leaving age now stands at 16. The Board of Education became the Ministry of Education.

In 1978 the system comprises: (a) public education in schools, colleges and universities; (b) private education in schools, colleges and universities; (c) nursery, elementary, secondary, higher and advanced education.

The legal framework of State education is contained in the Education Act (1944) with subsequent amendments. The vast majority of teaching establishments are in the public sector and controlled by the Department of Education and Science. Regional administration is by the Local Authorities. To preserve the independence and standards of State and Private Schools, and later of institutions of Further Education, Her Majesty's Inspectorate, directly responsible to the Crown, was created before 1870.

2.2 Correspondence Education

Correspondence education in the UK is conducted by three main types of organisation:

- Private sector, profit oriented organisations.

  These number over 30 different organisations, funded entirely from fees, and offer courses to the public mainly in the following areas: (a) General Certificate of Education subjects; (b) Examination subjects for Professional Bodies, e.g. Accountancy, Law, Aviation, Architecture, Medicine, Civil Service, Commerce; (c) General interest studies and leisure courses, e.g. painting, domestic arts, music; (d) External degrees from the University of London.

- Educational Institutions in the Public Sector.

  There are a few colleges of higher education, funded by Central and Local Government, which offer a correspondence tuition facility for certain kinds of student e.g. military personnel, students living in distant places. The courses are almost entirely in professional subjects.

- The Open University

  This was established quite recently (1969) and is supported by grants from Central Government. The main objective is to offer a second chance to those deprived of higher education and to offer a university level education for all those who are capable of it. A Royal Charter established the Open University as "an independent and autonomous institution." It offers courses in all types of degree level subjects.

2.3 Legislation and Regulation

There is no single piece of legislation concerning the activities of correspondence education in either the public or private sector. Nor are there comprehensive and unified regulations which regulate correspondence education. What control there is consists of a number of different, unconnected regulations and legal principles which can be broadly broken down as follows:

(a) Commercial Law concerning profit-making commercial enterprises including company law and contract law. These apply to the private institutions and the Open University.

(b) Regulation by non legal bodies which act in the interests of consumers in general or specific classes of consumers, e.g. correspondence students. These include rules of conduct set by the Association of British Correspondence Colleges, the standards of education exerted by the Council for the Accreditation of Correspondence Colleges, and standards set by the Advertising Standards Authority.

(c) Regulations concerning the Open University.

2.4 Commercial Law in the UK

Until the middle of this century the general principle underlying the law relating to the sale of goods was "caveat emptor" - let the buyer beware. Since the

fifties there has been more and more legislation aimed at protecting the buyer.

The English Law of Contract is essentially case law from which general principles have emerged and which have been supported by legislation. Contractual relationships between correspondence institutions and students are always created in writing i.e. an application form is submitted and written terms and conditions apply to the contract. There are two pieces of specific legislation which offer protection to the correspondence student: The Consumer Credit Act 1974, and the Sale of Goods Act 1893 (as amended) by the Supply of Goods (Implied Terms) Act 1973.

The Consumer Credit Act 1974

This Act consolidated various pieces of earlier legislation and covers the whole spectrum of credit transactions. Correspondence institutions may or may not be affected by it; what determines the matter is the amount of credit given for courses. If that credit exceeds £50 then the agreements are affected; if the credit is less than £50 the agreements may be affected in very minor ways. Thus the actual price of a course is unimportant.

There are five main provisions. First, the Director General of Fair Trading is required to supervise consumer credit and to make recommendations when the law is found to be inadequate to deal with particular practices. Second, a licence is required by any person (with certain exceptions) carrying on consumer credit. Third, there are regulations governing advertising and canvassing for business. Fourth, contracts are regulated by the Act itself and by regulations. Finally, the courts are given wide powers to suspend obligations, grant extensions of time and reopen extortionate bargains.

The Act only applies to regulated agreements and certain agreements are exempt; however, a correspondence institution which offers credit of £50 or more, whether by an instalment payment plan or by allowing payment by means of a credit card or similar method, will be affected as follows.

First the true cost of credit as calculated in a prescribed way must be shown in agreements. Second, there is a pre-contractual right of "reflection" and isolation in certain cases; the rules are:

(a) before sending the agreement itself for signature by the student the correspondence institution must send him a copy of the unexecuted agreement containing a notice in the prescribed form which explains his right to withdraw

(b) the institution must wait 7 days before sending the agreement for signature and if it receives a notice of withdrawal during this time it must not send the agreement for signature

(c) during the "consideration period" the institution must not approach the student in any way except in response to a specific request made during the consideration period. The effect is normally to give a student 14 days for reflection

(d) an agreement which fails to comply with the above requirements is improperly executed.

Third, a regulated agreement must be a document in the prescribed form containing all the prescribed terms and conforming to regulations and must be signed by both parties; the document must embody all the terms of the agreement (other than implied terms) and must be legible.

Fourth, the right of the student to cancel is available if two conditions are satisfied:

(a) the negotiations included oral representation made to the student (e.g. by a salesman) and

(b) the student signed the unexecuted agreement at a place other than the correspondence institution or at the office of one of its representatives.

In practice this right to cancellation will hardly ever arise because few institutions make oral representations in the presence of the student. Where the right does apply the student can exercise his right of cancellation from the date when he signs the unexecuted agreement until the end of the fifth day following the day on which he received the second copy or notice. The effect of cancellation is that all agreements and transactions are cancelled, all sums repayable and no further amounts are due.

Fifth, where the institution offers credit for less than £50 the only relevant section of the Act is that which requires disclosure of the true cost of credit.

There is a statutory right for a student to terminate a conditional sale agreement i.e. an agreement where payment is by instalments and property in the course remains with the institution until such conditions as may be specified in the agreements are fulfilled. In such a case the student is liable to pay all sums accrued due and unless the agreement is more favourable to him he must bring his total payments up to one half of the total price immediately before termination. However, it is not common for correspondence courses to be sold under this type of arrangement.

Finally a few miscellaneous provisions are relevant:

(a) where an advertisement indicates that credit is available for a restricted use credit agreement (e.g. instalment plan) the course must be available for payment by cash

(b) it is an offence for an advertisement to contain false or misleading information

(c) uninvited canvassing is an offence

(d) it is an offence to induce minors to take courses on credit.

The Act therefore introduces several important protective measures concerning sales methods, contracts and the cost of credit. However, it is fairly easy for an institution to avoid being subject to the Act simply by confining credit to less than £50, and in this case the student receives little protection from this Act.

2.5 Regulation by non-legal bodies

The Association of British Correspondence Colleges (ABCC)

The Association was formed in 1955 when an informal committee was set up to assist cooperation and dialogue between correspondence colleges. It is incorporated as a non-profit-making body and represents about 20 colleges.

The purpose of the Association is:

> "to safeguard the best interests of correspondence students by promoting sound educational standards and ethical business practices."
>
> Source: Official brochure

The aims of the Association are listed as:

"(a) To ensure that its members provide a high standard of tuition and efficient service

(b) To safeguard the interests of all students taking correspondence courses

(c) To be a centre of information and advice on all matters pertaining to correspondence education

(d) To cooperate with the Council for the Accreditation of Correspondence Colleges, the Department of Education and Science, local education authorities, universities, professional societies and institutions, and other bodies and persons concerned with further education

(e) To maintain and enhance the prestige of correspondence education."

Source: Official brochure

Membership is open only to correspondence colleges that have provided a "consistently reliable and efficient tutorial service for not less than five years and whose applications are approved by the Council of the Association."

The Association has a Code of Ethics and members pledge themselves to maintain the highest standard of integrity in all their dealings. The Code specifically requires members to undertake policies concerning the following:

Information: to ensure that information given about the choice of a career, career prospects or a student's studies shall be accurate.

Advice: to ensure that advice is given in good faith and in the best interests of the persons to whom it is tendered.

Enrolment: to take every reasonable care to enrol students only for courses that are suited to their individual needs and educational status or for tuition for examinations for which the students are likely to be eligible.

Conditions of enrolment: to inform students in their prospectuses and/or enrolment applications forms of the conditions on which they are enrolled and to include in advertisements only statements which accurately reflect such conditions.

Relationship with Students: to make fair regulations governing their relationship with students, and to treat equitably those who, through circumstances beyond their control, are unable to comply strictly with their regulations.

Tutorial Services: to provide an efficient tutorial service, to maintain adequate and appropriately qualified tutorial and administrative staff, and to issue to their students without undue delay adequate and reasonably up to date tutorial literature and instructions suitable to each student's needs.

Completion of Courses: to encourage their students to complete their courses of study and to do everything reasonably possible to enable the students to derive full benefit therefrom.

Certificate and Diplomas: to issue only certificates and diplomas that fairly represent the instruction given and not to make any statement or to imply that any such certificates or diplomas are equivalent to a degree or to a certificate awarded by a recognised examining body.

Publicity: to maintain the highest ethical standard in their publicity by making no statement in any advertisement, prospectus or publicity literature, or by correspondence or orally that is knowingly untrue or wilfully misleading; and in particular by publishing no examination results or statistics or particulars of their tutorial service or staff that are knowingly inaccurate or misleading.

Competition: to encourage, fair, dignified and honourable competition.

Obeyance: to ensure that their staffs are acquainted with this code, that they are given all facilities for complying with it and are encouraged to honour it in the spirit as well as the letter.

The ABCC played the leading role in discussions with the Department of Education and Science, and other parties, in establishing in 1969 the Council for the Accreditation of Correspondence Colleges.

The Council for the Accreditation of Correspondence Colleges (CACC)

The Council was formed in 1969 as an independent body with the cooperation of the Secretary of State for Education and Science who nominates the Chairman and five members of the Council. The members are persons of recognised responsibility and established reputation in the field of further education and provides two members of Her Majesty's Inspectorate to attend meetings. In addition five other members are nominated by the Accredited Colleges.

The Council receives funds from the Department of Education and Science and is the only recognised body responsible for the award of Accreditation to correspondence institutions. It also performs a valuable advisory function.

The principal objects of the CACC are:

Sale of Goods Act (1893) as amended by
the Supply of Goods (Implied Terms) Act 1973

The essence of these two acts is to protect the buyer against goods which are unsatisfactory and unfit for the purpose for which they are sold. There are two main sections which are relevant to correspondence education:

(a) Section 13 states:

"Where there is a contract for the sale of goods by description, the goods shall correspond with that description (and further if the sale is by sample) as well as by description, it is not sufficient if the bulk of the goods corresponds with the sample if the goods do not also correspond with the description."

This section would therefore protect a student against receiving dressed up samples of a course which in total did not fit the original description. For example, "a fully comprehensive and up to date" course in a technical subject must be what it is described to be, and samples must fairly represent the total course content.

(b) Section 14 concerns

"merchantable quality" and "fitness for purpose", and here there is some vagueness as to how applicable it is to correspondence courses. The general principle is that the buyer (student) must take reasonable steps to satisfy himself that he is getting what he could fairly expect under the contract. Since the essence of correspondence tuition is that there is a distance between teacher and taught, it is difficult for students to take these "reasonable steps".

Under this section goods are to be "reasonably fit" and not "perfectly fit", and what is reasonable will depend on the circumstances.

Section 14(3) specifies:

"where the seller sells goods in the course of a business and the buyer, expressly or by implication, makes known to the seller any particular purpose for which the goods are being bought there is an IMPLIED CONDITION that the goods supplied under the contract are reasonably fit for that purpose."

As a result it would seem that a student would be protected where the course material supplied was out of date, inadequate, in the wrong language or otherwise unfit.

A minor (a person under the age of 18) is liable to pay for "necessaries" which are defined as "goods suitable to the condition in life of such infant or minor or other person, and to his actual requirements at the time of the sale and delivery". It is up to the seller (the institution) to prove that the goods are necessaries.

There are many other sections in these acts (concerning price, contracts, loss, transfer of title, mistake, frustration) which have little direct relevance to correspondence education. It is worth noting that in the case of "consumer sales"

the contract cannot opt out of sections 13 and 14, and be declared outside the Act. Finally, a buyer has the right of action for damages for non-delivery (Section 51).

Company Law

In the UK correspondence education is conducted mostly by limited companies. These organisations are incorporated under English Company Law, most of which is contained in the Companies Acts of 1948 and 1967. The exception is where the universities or colleges of Higher Education administer correspondence education; the Open University is incorporated by Royal Charter and other State institutions by statute.

The main ways in which company law can regulate correspondence education are:

(a) a company has a legal identity and can be sued and held responsible for its actions

(b) a company must file annual returns which are open to public inspection

(c) annual accounts must be prepared and audited by qualified accountants

(d) certain persons e.g. those with criminal backgrounds or undischarged bankrupts, cannot be directors of a company

(e) directors of companies are in a sense trustees of both the company's money and property and also of the powers entrusted to them. They are also agents by whom the company acts and must act within the prescribed Memorandum and Articles of Association of the company

(f) directors have fiduciary duties and must exercise power honestly and observe the provisions of the Companies Acts.

The main effects of the legislation on companies is that by imposing standards of commercial responsibility in the handling of money, the composition of management, and by ensuring that the company has an identity separate from the individuals who run it, people who deal with companies have some confidence that a trustworthy relationship exists. Of course, companies can fail but the legal framework makes sure that records are kept and details available so that the consumer is not left totally high and dry.

Other Consumer Legislation

In addition to the laws mentioned there are two other aspects of student protection which require a brief mention. First, the Fair Trading Act was introduced in 1973 and is designed to protect consumers against actions on the part of sellers which are "contrary to the economic interests of consumers in the UK". The Director General also has the power to recommend Statutory Instruments which can curb economic practices which are unfair to consumer interests e.g. advertising, canvassing, sales methods, payment for goods. Second, the Misrepresentation Act (1967) protects buyers against entering into a contract after a false statement of fact has been made and the Trade Descriptions Act (1968) makes it a criminal offence to apply "a false trade description" to goods or services - a description is false if it is misleading.

"(a) To promote education by setting standards for all aspects of tuition, education or training carried out wholly or in part by post, to investigate the manner in which such activities are carried out and to grant, where appropriate, the award of accreditation stating that the activities of the college so investigated conform to such standards.

(b) To make known the requirements of standards set by the Council from time to time and to promote interest in the benefits arising therefrom.

(c) To give effects to the standards set with a view to raising standards of postal tuition, to furthering its development on sound and progressive lines, to improving existing methods and introducing new techniques in postal tuition and to linking, where appropriate, correspondence courses with other forms of education.

(d) To protect the interests of students and colleges having regard to the distinctive characteristics, traditions and needs of both."

Source: Official brochure

Accreditation by the CACC is not compulsory, although most of the well established correspondence institutions are accredited. The Open University is not accredited, nor are any of the public sector colleges which offer correspondence tuition. These non-accredited institutions in the public sector are subject to inspection by the Department of Education and Science, under the Education Act (1944). Correspondence institutions in the private sector are not inspected by the Department of Education and Science under the Education Act 1944 since they are neither considered full-time teaching establishments nor administered by the Local Authorities. It was this gap which the CACC was designed to fill.

There are six main aspects of the accreditation system which are laid down in the Bylaws (July 1977):

(a) Eligibility for Accreditation (Bylaw 4); (b) Standards for Accreditation (Bylaw 3); (c) Procedure for Accreditation (Bylaw 5); (d) Grant and Retention of Accreditation (Bylaw 6); (e) Complaints (Bylaw 8); (f) Withdrawal of Accreditation (Bylaw 7).

Eligibility: There are two basic requirements. First, a college must be 'separately defined and identifiable by the exclusive name under which it operates'. This means that where there is a group of colleges under one corporate umbrella and/or premises, each shall be accredited separately. Second, the college must have provided tuition for such a period as the Council may deem to be reasonable and necessary.

Standards: A college must comply with the following standards:

First, "the objective of each course provided by a college shall be clearly stated, and the tuition provided and methods employed shall be suitable for the stated purpose."

Second, "a college shall ensure that its courses are prepared and supervised and its students' scripts assessed by suitably qualified persons."

Third, "a college shall have fair and reasonable conditions for the enrolment of students and the conduct of their courses and shall take all possible steps to ensure that every student who applies for enrolment is provided with a full statement of his financial and other commitments to the college, and of what he is entitled to be provided with in return."

Fourth, "a college shall maintain the highest ethical standards in its recruitment of students and publicity activities and, in particular, its advertising and promotional literature and practice shall be truthful and informative; improper inducements and overstated prospects of individual success and financial reward shall not be allowed in printed material or in personal consultations."

Fifth, "a college shall, in relation to all aspects of its work, provide an efficient administrative service and shall employ competent and suitably qualified persons for this purpose."

Finally, "any diploma or certificate offered or issued by a college shall fairly and clearly reflect the instruction given and shall be issued only on compliance with conditions satisfactory to the Council. No statement by a college shall imply that any such diploma or certificate may be recognised as equivalent to a degree or to a diploma or certificate awarded by a recognised examining body unless the college itself has been granted official recognition as the examining body."

In this way the CACC seeks to ensure that a student is not misled by advertising or promotion into enrolling; that if he does enrol he understands what it involves both studywise and financially; that the course material is suitable and prepared by suitably qualified staff; and that there are no "bogus" diplomas, degrees or other awards made by the institution.

Procedure: Colleges seeking accreditation are required to pay an application fee, make written application and undergo visits and investigation. After a written report has been submitted to the Council a decision to award accreditation must be agreed by not less than 8 (out of 11) council members. The Council may defer accreditation until certain matters have been settled or refuse accreditation. In the case of refusal, reasons must be made known.

Grant and Retention: Accreditation of an institution means a commitment by that college to pay annual fees, to conform to the standards set out in the bye-laws, agree to re-assessment periodically, and allow the Council access to the institution at any time during working hours to examine documents, courses and systems.

Complaints: The CACC will intervene between an institution and a student when a dispute arises. A procedure is laid down which ensures the full facts are collected and failing a satisfactory negotiated outcome the Council can decide by a simple majority of members present and voting whether the institution has acted in breach of the conditions of accreditation and if so to what extent the Council should take remedial action.

Withdrawal of Accreditation: This may be decided by 8 (out of 11) of the Council voting in favour.

The Advertising Standards Authority (ASA)

The Advertising Standards Authority was set up in 1975 and sponsored by 21 organisations engaged in publishing, advertising and promotion. It publishes a code of advertising practice which is "specifically designed to protect you (the consumer) from advertising which is illegal, misleading or offensive."

The scope of the Code as contained in the Preamble is:

1.1 All advertisements should be legal, decent, honest and truthful.
1.2 All advertisements should be prepared with a sense of responsibility to the consumer.
1.3 All advertisements should conform to the principles of fair competition as generally accepted in business.
1.4 No advertisement.
2.1 The primary object of this Code is the regulation of commercial advertising.
2.2 In addition the Code applies, so far as is appropriate, to advertisements by Government departments and agencies and to those by other non-commercial organisations and individuals.

The general principles, in so far as they might apply to correspondence institutions, state:

Honesty 2.1.
Advertisements should not be so framed as to abuse the trust of the consumer or exploit his lack of experience or knowledge.

Truthful Presentation 4.1.
All descriptions, claims and comparisons which relate to matters of objectively ascertainable fact should be capable of substantiation, and advertisers and advertising agencies are required to hold such substantiation ready for production without delay to the CAP committee or the ASA.

Testimonials 9.1.
Advertisements should not contain or refer to any testimonial or endorsement unless it is genuine and related to the personal experience over a reasonable period of the person giving it. Testimonials or endorsements which are obsolete or otherwise no longer applicable should not be used.

Guarantees 14.1.
Advertisements should not contain any reference to 'guarantees' or 'warranties' which take away or diminish any rights which would otherwise be enjoyed by consumers; purport so to do; or may be understood by the consumer as so doing.

14.2
Advertisements should not contain the words guarantee or warranty, words derived from them or words having the same meaning, unless the full terms of such undertakings, as well as the remedial action open to a consumer, are clearly set out in the advertisement or are available to the consumer in writing at the point of sale or with the product.

Employment and Instructional Courses 8.2

Advertisements offering instructional courses should not contain misleading promises of employment nor exaggerate the opportunities of employment or remuneration claimed to be open to those taking such courses.

8.3 Unrecognised degrees or qualifications should not be offered nor should the value of recognised degrees be misrepresented.

The ASA has an executive committee which meets six times per year. There are also four sub-committees - financial advertising, mail order advertising, sales promotion and health and nutrition claims. A Copy Panel of about 50 people advises the committees about individual advertisements, both published and proposed. Where the committee feels there are grounds for complaint the matter is taken up with the advertiser or his agency. The ultimate sanction is that all media organisations which are members of the committee will be recommended not to accept the offending material. A right of appeal exists.

2.6 The Open University

The Open University occupies a special position because it was created by a Royal Charter. Although it charges fees to students it is largely funded by the Government. It makes extensive use of television as a teaching medium. The Charter, promulgated in 1969, suggests several ways in which the student is protected. These are: by the administrative and executive structure which allows for discussion; and by student participation in decision making, via student committees.

The Open University is both a teaching and an examining body and comprises:

(a) A Council, which is the executive governing body; (b) A Senate, which is responsible for the academic work of the University, both in teaching and in research, and for the regulation and superintendence of the education and discipline of the students of the University; (c) An Academic Advisory Committee of the University which is responsible for keeping under review the standard of education; (d) Other sub-committees and departments formed to carry out its objectives.

The University has the power to prescribe in the Statutes, Ordinances or Regulations "the conditions under which persons shall be admitted to the University or to any particular course of study therein." The Charter also states "There shall be an organisation of students of the University whose constitution, powers and functions shall be prescribed by Ordinance." The statutes of the University include the power of the Council:

> "To establish joint committees of the Council and representatives of the students and to prescribe the method of appointment of such representatives and the functions of such committees." These are known as Regional and General Assemblies. The General Assembly is entitled to express an opinion to the Senate on any matter affecting the work and interests of the University.
>
> "To review the work of the University and, subject to the powers of the Senate, to take such steps as it thinks proper for the purpose of

advancing the interests of the University, maintaining its efficiency, encouraging teaching, the pursuit of learning and the prosecution of research therein."

The Senate also has the powers:

"To regulate and control all teaching, courses of study and the conditions qualifying for admission to the various titles, Degrees and other distinctions offered by the University."

"To regulate the admission of persons to courses of study and their continuance therein."

Thus the Open University allows the students to participate in the decision making of the organisation. In this way, both the administrative departments and the teaching departments get a feedback from students so that important matters concerning communication, course material, teaching method can be discussed and defects remedied.

2.7 Summary

Correspondence education enjoys an important and respected position in the overall educational system of the UK. Each year some 500,000 students are engaged in studying by this method, both for professional qualifications and for vocational reasons. In order to assess the effectiveness of the system of regulation approaches were made to the Advertising Standards Authority and to one of the leading colleges, Wolsey Hall College.

The Advertising Standards Authority reported that in the two years 1975-1977 they had dealt with only 8 cases concerning advertising by correspondence colleges. Of these complaints four were upheld, three were dismissed and one partly upheld. Of the four cases upheld the nature of the complaints involved was:

(a) The complainant stated that although he had completed a course, he was not offered a position or refund, as advertised. He complained that the contract he had signed did not state that there was a required pass mark to obtain the Diploma.

(b) The complainant contended that the copy "Over 3,000,000 successful students" was misleading as there were no Linguaphone exams.

(c) A member of the public objected to the fact that the advertiser was offering postal instruction on Kung Fu.

(d) A member of the public objected to an advertisement feature for the advertisers Practical English Programme. In the complainant's view the copy was not clearly identifiable as an advertisement feature.

However, where an advertisement had stated "Pass first time - or fee refunded" the Authority felt that it was reasonable for details of the refund guarantee to be reserved (as was the case) to the brochure, which would be read before a prospective student embarked upon a course of study.

The Chairman of Wolsey Hall, Oxford, indicated that complaints from students fell under the following headings:

(a) Non-arrival of course material or text books. Very often this can be attributed to postal delays.

(b) Study contracts. Students often seek refund if they drop out. The situation was now governed by the Consumer Credit Act.

(c) Non-supply of textbooks. Courses are based on textbooks and every effort is taken to ensure that the recommended books are available. But supply is often dependent on publisher's stock.

(d) Tutors. Complaints do sometimes arise about tutors either not giving enough advice or in some way irritating students.

(e) Administrative errors. A very small number of complaints are settled by the correspondence department. During the past five years a very small number (estimated at three or four) of complaints had been referred to the ABCC or CACC.

There can be little doubt that the CACC is influential in maintaining ethical standards amongst accredited colleges. Because the Department of Education and Science nominates 6 out of 11 council members (including the Chairman) it has a vested interest in securing acceptable standards of educational material, administration and supervision. But the CACC has no power over non-accredited correspondence institutions.

The ABCC is less influential and is little more than a trade association concerned with protecting and promoting the interests of the member colleges. For example, it requires that tutorial literature "be reasonably up to date" but students generally are not in a position to know what is reasonable and may not know of the existence of the ABCC.

A recent article by the consumer magazine "Which" summarised the situation as follows:

> "For many people, a correspondence course is the only way of gaining useful qualifications or studying subjects in which they are interested. So it is very important that courses are of the highest possible standard. Our survey shows that it is possible to get a lot out of a correspondence course. But it also shows that colleges can, on occasion, provide a less than satisfactory service. (Of course, alternative methods of study aren't likely to be perfect either - but that's no reason for not trying to improve standards in correspondence education). We would like to see the accreditation system made more stringent. All colleges should have to be accredited and the CACC should check standards more frequently and more rigorously."
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> Which magazine, August 1977

Chapter 3

United States of America

3.1 Introduction

In the 17th/18th century American schools generally reflected European educational ideas. Power over schools was held by governmental authorities as the British Crown delegated powers to Stock companies proprietors, royal governors and colonial legislatures. Colonial governments retained authority over education but began to delegate to private individuals and religious groups the right to establish and support their own schools. The process of decentralisation of control was a response to the "frontier conditions" of life and reflected the agrarian interests of the districts in contrast with the growing commercial interests of the central towns.

Between the period of the American Revolution (1775-81) and the Civil War (1861-65) the main development in education was that the US rejected private systems of education based upon economic, class, national and religious distinctions and established a system of common schools that would be free, universal and open to all. This was achieved by three main strategies: (a) public support through taxation; (b) State control; (c) freedom from religious sectarianism.

However, there remained a healthy and vigorous system of private education which depended on benefactors most of whom were successful businessmen and in many cases supported a particular religious group. This was especially so with the system of university and secondary education.

By the middle of the 20th century the following pattern had emerged, despite a wide variety of practices amongst the States.

(a) Freedom of public education to all. All States require school attendance to the age of 16 and a few to the age of 17 or 18.

(b) Centralised Authority: Decentralised Administration. The Federal Government exercises little control over education (except for court decisions). The authority for the sponsorship and control of public education is largely centralised in the hands of the State governments.

(c) Freedom for Private and Parochial Schools. A decision by the Supreme Court in the Oregon Case (1925) affirmed the principle that private and religious groups may freely establish, maintain and support their own institutions.

(d) Financial Support from Larger Units. Since 1850 an increasing proportion of public funds came from State and federal governments and less from local districts, cities, towns and counties. There was consequently greater standardisation in the quality of schools and education, though expenditure per pupil still varies considerably from State to State.

(e) Federal Aid. Although the States have resisted federal support, nevertheless the Federal Government has increased its influence over education in several

ways: first by financial support for specialised types of education - agricultural, vocational, defence, scientific research and financial support for veterans; and second by a "Federal School Aid Bill" which provides financial support for special programmes designed to improve the educational opportunities of poor children in both the public and private elementary and secondary schools.

(f) Widespread availability of Education. Today some 95% of all children aged 14-17 attend secondary school.

(g) Higher Education. This has been devised to cater for a wide range of different abilities and inclinations. It consists of about 150 universities, 700 four year liberal arts colleges, 300 separate technical and professional schools, 200 teachers colleges.

In total there are some 1300 degree granting higher educational institutions in the US. Over half of all students in higher education are in public institutions.

3.2 Correspondence Education

Correspondence education in the US is conducted by a variety of organisations in both the public and private sector. They may be divided into:

- Private Sector profit oriented organisations.
  Sometimes called the Propietary Schools, there are over 200 schools and colleges which offer a wide range of courses in both professional studies, vocational studies and leisure studies. The schools give instruction in elementary, secondary and post-secondary education.

- Special Departments within certain Universities.
  There are over 60 universities which have departments specialising in teaching by correspondence. They are concerned with Adult Education and are oriented towards professional studies. The titles of these organisations include Extension Course Institute, Correspondence Study Office or Department, Correspondence Division, Division of Continuing Education Independent Study, Extension Credit Programs, Independent Study Division.

- Organisations within the Armed Forces or the State Departments of Education.
  These include for example the United States Air Force Extension Course Institute, Bureau of Adult Services at the Massachusetts Department of Education, Federal Agencies such as the Department of Agriculture and the US Postal Service.

- Non profit-making organisations connected with religious or social groups.
  An example is the Home Study Institute, which provides correspondence education services for the Seventh-day Adventist Church school system around the world.

About 5 million people each year are taking a correspondence course for professional, vocational or leisure reasons.

3.3 Legislation and Regulation

Because of the vast size of the country, the decentralised administration of education, the range of different organisations offering correspondence education and the complexities created by Federal versus State law, it is necessary to look at legislation and regulation in several different ways.

First, there is the control exerted by the different States. This affects the private sector schools and also, indirectly, the University system. Second, there are the regulations administered by the Federal Trade Commission, a government body concerned with the conduct of business in general and more recently extending specific regulation over the activities of private sector colleges. Third, there is the system of accreditation over education which has existed for over 50 years. In particular there is the system of accreditation provided by the National Home Study Council (NHSC) and the National University Extension Association - Independent Study Division (NUEA). Fourth, there is regulation imposed by the Veterans Administration.

3.4 State Legislation

Each State of the US has a legislative and an executive body. Education in general is governed by the State Departments of Education which are responsible for State Schools, State Universities and the licensing of other, private, educational organisations. In addition, there is an Education Commission of the States (ESC) which represents the States on matters of policy and procedure concerning the improvement of education.

The legal responsibility for authorising the existence and continuation of post-secondary educational institutions, programmes and courses of study rests fundamentally with the States. The States have a particular concern to protect students against questionable, unethical, and fraudulent practices.

In 1973 the Education Commission of the States produced a "Report of the Task Force on Model State Legislation for Approval of Post-secondary Educational Institutions and Authorisation to Grant Degrees." The purpose was to protect students by:

(a) establishing minimum standards concerning the quality of education, ethical and business practices, health and safety, and fiscal responsibility, to protect against sub-standard, transient, unethical, deceptive, or fraudulent institutions and practices

(b) prohibiting the granting of false or misleading educational credentials e.g. bogus degrees

(c) regulating the use of academic terminology in naming or otherwise designating educational institutions

(d) prohibiting misleading literature, advertising, solicitation or representation by educational institutions or their agents

(e) providing for the preservation of essential academic records

(f) providing certain rights and remedies to the consuming public and the Agency/Commission necessary to effectuate the purposes of the Act.

The proposals concerned post-secondary educational institutions and therefore included home study organisations as well as other kinds of college, university, school or person "offering educational credentials, or offering instruction or educational services for the attainment of educational, professional or vocational objectives."

The report covered the following main areas: Powers and Duties of the proposed State Agency/Commission, Minimum standards, Prohibition, Authorisation to operate, Agent's Permit, Denial of Authorisation to Operate or Agent's Permit, Review, Revocation of Authorisation to operate or Agent's Permit, Complaints of Violations, Judicial Review, Bonds Required, Fees, Preservation of Records, Enforceability of Notes, contracts etc., Violations - Civil - Penalty, Violations - Criminal - Penalty, Enforcement: injunction.

The most important of these are summarised below:

Powers and Duties of the Agency

(a) To establish minimum criteria including quality of education, ethical and business practices, health and safety and fiscal responsibility which applicants shall meet in order to get authorisation or permission to operate.

(b) To receive, investigate as it may deem necessary, and act upon applications for authorisation to operate post-secondary educational institutions and applications for agents' permits.

(c) To maintain a list of post-secondary educational institutions and agents to operate in the State.

(d) To receive and cause to be maintained as a permanent file, copies of academic records.

(e) To investigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group or entity subject to the Act; to subpoena any persons, books, records or documents pertaining to such investigation; to require answers in writing under oath to questions propounded by the Agency and to administer an oath or affirmation to any person in connection with any investigation.

(f) To exercise other powers and duties implied but not enumerated in this Section (5) but in conformity with the provisions of this Act which, in the judgement of the Agency, are determined necessary in order to carry out the provisions of the Act.

Minimum Standards. These were laid down to determine whether an institution could operate in the State. (Correspondence colleges are often located in one State but enrol students in another State). Essentially the criteria included consideration of the institution's ability to enable students to reach its educational objectives and assurance that it had the means of doing so. Typical matters to be considered were: (a) facilities - space, equipment, materials; (b) qualifications of staff; (c) information; (d) credentials and records.

It also stressed the importance of full disclosure of information to students and proposed that neither the institution nor its agents engage in advertising, sales, collection, credit, or other practices of any type which were false, deceptive, misleading or unfair. The institution must also have a fair and equitable cancellation and refund policy.

On the question of agents it proposed that an applicant for an agent's permit should be an individual of good reputation and character and should represent only a post-secondary educational institution which met the minimum standards laid down. In other words, institutions not approved by the Agency could not have agents.

An important point was that where an institution had been accredited by a national or regional accrediting agency recognised by the US Office of Education, it would be deemed as meeting the minimum standards laid down. This effectively encouraged institutions to be fully accredited and shifted the responsibility for monitoring standards to the private sector.

Prohibition. These were very specific and the proposed Act laid down that:

(a) an institution resident in the State must be authorised

(b) agents must have permits whether representing an "out of State" or resident institution

(c) although "out of State" institutions are not required, prior to soliciting, to apply for an "authorisation to operate" they immediately become subject to the jurisdiction of the courts within that State when they do solicit and may be enjoined if they fail to meet the minimum standards required under the Act

(d) the term "university" or "college" could not be used without State authorisation

(e) educational credentials could not be granted or offered without State authorisation.

Authorisation. The procedures and conditions for obtaining or renewing the institution's authorisation to operate and the agent's permit were laid down.

Agent's Permit. These laid down the method of applying for a permit by an agent. For example, a school located in a northern state such as Pennsylvania could appoint an agent to enrol students say in California and that agent would need to be licensed by the State of California.

Sections 10, 11 and 12 were designed to establish safeguards and due-process requirements in connection with applications for authorisation to operate, agent's permits and renewals of permits, e.g. rights of appeal where a permit is refused.

Violations. People who believed that they had been victimized by post-secondary institutions or agents could have a place to go to file a complaint. The agency could initiate an investigation into the activities of the institution based on the complaint. A "cease and desist" order could be made and if that was not effective penalties could be imposed.

Judicial Review. There would be a court review for any person or institution which felt aggrieved or adversely affected by any final Agency action or penalty.

Bonds. Both the institutions and any agents were required to have surety bonds which would provide indemnification to any student or enrollee (or his parent or guardian) who had suffered loss or damage as a result of any act or practice which was a violation of the Act by the Institution or Agent.

Preservation of Records. The Agency had the power to preserve academic records of students enrolled at institutions so that they would always be available at a later date. For example an institution which intended to close down had to send all student records to the Agency.

Enforceability of Notes, Contracts etc. This section aimed to prevent a common practice by which out of State institutions obtained judgements in their own State for tuition or other charges against students resident in another State. Often the student was at a great disadvantage to defend himself. Thus, under the Act contracts or other evidence of indebtedness could not state that the law of another State applied or that the student consented to another jurisdiction; nor could another person confess judgement; nor could a venue be fixed.

Furthermore, an institution which had not been authorised to operate in the State could not request a court in the State to enforce contracts or payments against students; the same principle applied to agents.

The section also required that any "lending agency" (i.e. any person, group, or entity lending money to students of an institution for tuition fees or other educational services) must mark any document with the terms "Student Loan". The "holder in due course" doctrine, under which an institution might use a third party to collect payments from a student for services not yet provided and which might never be provided would be prohibited.

The remaining Sections laid down the cases where penalties were civil or criminal, that jurisdiction was in the State enacting the Act, that the Attorney General of the enacting State could enforce the Act and that injunctions could be filed where it appeared the Act had been violated.

3.5 Current State Law

The existing requirements to be met under State Law for private correspondence institutions are summarised below:

(a) The School or College must be licensed by the State. Required by 45 States. Not required by 6 States. The fee payable for licensing ranges from zero to $1000 and may be a single, once only, payment or an annual payment.

(b) The School or College must renew the licence. Required by 44 States. Not required by 7 States. Fees for renewing the licence are required by most States and the renewal is mostly annual but may be after two or three years.

(c) The School or College must submit a Bond. Required by 40 States. Not required by 11 States. The amount of the bond varies from $1000 - $50,000 and averages about $10,000. It is sometimes linked to gross tuition fees.

(d) The State has a specific refund policy. 29 States do. 22 States do not.

In several cases the refund policy of National Home Study Council is accepted. Alternatively the refund policy of the accredited schools is acceptable. Many States do, however, have their own policy which may or may not be linked to the existing Consumer Credit Law in the State. Where a State prescribes its own policy on refunds, it is common for a pro rata system to be used; if, for example, a student drops out half way through the course a 50% refund must be made. Sometimes a portion of the fees is non-refundable, e.g. 5%. Sometimes there may be stipulations as to the size of printing required on contracts or other documents, e.g. bold type or 12 point.

Sometimes non-accredited schools may be penalized by a stricter policy on refunds than accredited schools. This encourages schools to be accredited.

(e) Enrolment contracts must contain special and approved language. Required by 24 States. Not required by 27 States.

There are several specific requirements. Examples are:

(a) The language must be acceptable by the State Banking Dept; (b) Course price must be printed on the face of contract; (c) College must print a note advising a student to contact the State Department of Education with any complaints; (d) Students must receive separate cooling-off notices; (e) Special language may be required on enrolment contracts, for those students who are veterans of the Armed Forces; (f) Details of refund policy may be required on contract; (g) NHSC Bulletins may be relevant; (h) Contracts must conform to laws concerning solicitations in the home.

(f) Agents must obtain a permit. Required by 44 States. Not required by 7 States. Application fees vary from $5 to $100. All States which require a permit require it to be renewed.

(g) Agents must be bonded. Required by 35 States. Not required by 16 States. The amount varies from $1000 - $25,000.

(h) There must be a specific "cooling off" period which allows for a student to change his mind about enrolment. Required by all States. The NHSC Bulletins may be relevant, especially Bulletin 26, (16.4.74).

(i) Accreditation by the NHSC is recognised by the States. 23 States do recognise such accreditation. 28 States do not recognise such accreditation.

Where a State recognises accreditation by the NHSC then an accredited institute may be deemed to meet the State standards. Sometimes only part of the NHSC standards will be recognised, e.g. refund policy. NHSC accreditation may be recognised for the purposes of Veterans benefits (there is financial assistance to ex-military personnel attending recognised institutions). Accredited schools may be exempt from application for bonds and from renewal fees.

Summary of State Law: The State approach to control over correspondence education depends on three key elements:

(a) a system of licensing of colleges and agents with frequent renewals

(b) a system of bonding which is in effect an insurance against financial or other improprietary. This applies both to the schools and their Agents

(c) a prescribed period of and conditions governing "cooling off" so that a student may have the option to withdraw from a course for which he may have enrolled in a flush of excitement.

In general where an institution is accredited by the NHSC it will gain some advantage, either in terms of meeting State requirements or in being exempt from them.

3.6 Federal Trade Commission (FTC)

The Federal Trade Commission was established by Act of Congress in 1914 and occuplies a very important position in the US economic and legal structure. The basic objective of the FTC is the maintenance of strongly competitive enterprise as the keystone of the American economic system. The essence of its existence is "to prevent the free enterprise system from being stifled, substantially lessened or fettered by monopoly or restraints on trade, or corrupted by unfair or deceptive trade practices." The main features of the FTC are:

(a) It is an administrative agency, acting quasi-judicially and quasi-legislatively and deals with trade practices on a continuing and corrective basis.

(b) It has no authority to punish; its function is to prevent, through cease-and desist orders and other means, those practices condemned by the law of Federal trade regulation. However, court ordered civil penalties up to $10,000 may be obtained for each violation of a Commission order.

(c) In so far as the activities of correspondence institutions are concerned its principal functions may be listed as:

a) To promote free and fair competition in interstate commerce through the prevention of general trade restraints such as price fixing agreements, boycotts, illegal combinations of competitors and other unfair methods of competition.

b) To safeguard the public i.e. students by preventing the dissemination of false or deceptive advertisements of consumer products (e.g. correspondence courses) generally as well as other unfair or deceptive practices.

c) To prevent discrimination in price, interlocking directorates which may restraing competition, the payment or receipt of illegal brokerage.

d) To achieve true credit cost disclosure by consumer creditors as called for in the Truth in Lending Act, to assure a meaningful basis for informed credit decisions.

e) To protect consumers against circulation of inaccurate or obsolete credit reports, and to ensure that consumer reporting agencies exercise their responsibilities in a manner that is fair and equitable and in conformity with the Fair Credit Reporting Act.

Any one may make a complaint to the commission - consumer, competitor, Congress, Federal, State or municipal agency. A letter giving the facts will suffice and the Commission will decide whether to investigate. If an investigation is completed there will be a recommendation for either informal settlement of the case or issuance of a formal complaint, or for closing the matter.

The main tool for obtaining compliance with its decisions is a 'cease and desist' order and where these are issued and accepted by the respondents, the respondents must file a report acknowledging compliance. If compliance is not obtained or the order violated, civil penalty proceedings may be instituted.

Any organisation may approach the Commission for an advisory opinion as to whether a proposed course of conduct, if pursued, would be likely to result in further action by the Commission. Two other means are used to disseminate information:

(a) Trade regulation rules; (b) Industry guides which are interpretations in layman's language of the laws administered by the Commission so that business people can appreciate if their business is legal or otherwise and make any changes in order to comply. Failure to comply with the guides may result in corrective action by the Commission.

3.7 The FTC and Correspondence Education

During the past 10 years the Commission has increasingly turned its attention to the private correspondence education industry. In 1972 it issued a "Guide for private, vocational and home study schools". The aim of the guide is:

> "The Guide should result in a more widespread and equitable observance of the laws administered by the Commission with a view to protecting the public and to provide a basis for the industrywide abandonment of unfair and deceptive acts and practices on the part of the proprietary schools."
>
> Source: Official brochure

The Guide applies to all correspondence schools and covers the following areas:

Deceptive Trade or Business Names. The main intention is to prevent schools from giving a misleading impression as to their status, relationship with Government bodies or ability to secure employment for students. For example, a school conducting instruction wholly by correspondence must make this clear "in immediate conjunction with the name".

Accreditation and Approval. The Guide states:
"An industry member should not misrepresent directly or indirectly the extent or nature of any approval its school may have received from a State agency or the extent or nature of its accreditation by a nationally recognised accrediting agency or association."

The intention is that claims about accreditation and approval must be based on facts and full disclosure rather than partial disclosure which can mislead or deceive students about the quality and status of the course.

Misrepresentation of Facilities, Services, Qualifications of Instructors and Status. This Section aims to prevent schools using photographs or making statements about the size of the school, its location and teaching facilities, and the number and educational qualifications of its faculty and other personnel. Such misrepresentation could occur in advertisements, promotional material, such as prospectuses, or catalogues and books.

It also prohibits a school from misrepresenting that it is a non-profit organisation, that it is affiliated or otherwise connected with a public or private religious or charitable organisation or that its courses have been recently revised if that is not a fact.

Misrepresentation of Enrolment Qualifications or Limitations. "An industry member should not misrepresent the nature or extent of any prerequisites it has established for enrolment in a course or program of instruction."

The idea here is to prevent students being led to believe that the standards for entry are higher than they really are. By playing on a student's sense of inferiority in his academic achievements it is possible to induce him to enrol when strictly he is not eligible. This is known as "reverse psychology" and is common in advertising practice.

The guide also made it incumbent on schools to check the qualifications of applicants and those not suitably qualified should not be enrolled.

Deceptive Use of Diplomas, Degrees or Certificates. This Section aims to prevent schools issuing degrees, diplomas or other certificates which misrepresent the subject matter of the course, offering or conferring degrees which are not recognised by the appropriate State educational agency (i.e. bogus degrees), or offering or conferring high school diplomas unless the programme of instruction is equivalent to that of a full-time, resident secondary school.

The school is also required to advise the student in writing prior to enrolment that it cannot guarantee or otherwise control the recognition which will be given to its diploma by other institutions.

Deceptive Sales Practices. Particular practices which are considered unfair include:

(a) misleading offers of employment in advertisements; (b) reference to salesmen and agents as 'counselors', 'advisors', 'registrars'; (c) holding bogus 'talent hunts' or other contest designed to get leads of prospective students.

Deceptive Pricing and Misuse of the Word "Free". This Guide attacks statements which say or infer that the student or a class of students is getting a "special deal", that is to say below the normal price, when in fact the normal price is never actually used. The same applies to equipment, books or supplies. Similarly, offers of "bogus" scholarships are prohibited and the use of the word "free" must comply with the provisions laid down in the "Commission's Guide Concerning Use of the Word Free".

Deceptive or Unfair Collection and Credit Practices. There are two main parts:

(a) Schools should not use any deceptive representations or deceptive means to collect or attempt to collect tuition or other charges from their students

(b) A school should not seek to force payment by a student for fees etc. if at the time of enrolment the school or its agent misrepresented the nature or the terms of the said contract or instrument at the time or prior to the time the contract or instrument was signed.

The Commission also has issued a publication "The Commission's Guides Against Debt Collection Deception."

Affirmative Disclosures Prior to Enrolment. This guide requires that schools give the following information to students before enrolment:

(a) The school's policy and regulations relative to make-up work, delay or delinquency in meeting course requirements, and standards required of the student for achieving satisfactory progress.

(b) The cost of any additional texts, equipment or materials required by the student.

(c) A detailed and explicit description of the extent and nature of any job placement services provided for students.

(d) Any other material facts concerning the school and the programme of instruction or course which are reasonably likely to affect the decision of the student to enrol.

Other FTC Regulations

There are several other regulations which affect correspondence schools as well as a large number of other different types of business organisations. The main examples are:

(a) Trade Regulation Rule concerning a "Cooling-off Period for Door to Door Sales." This specifies that buyers must be given a copy of the contract at the time of sale which gives them the right to cancel within three days. It also requires the buyer to be given details of the procedure and terms for cancelling the sale.

(b) Truth in Lending Act, which assures that every customer who has need for consumer credit is given meaningful information with respect to the cost of that credit.

3.8 Accreditation

Accreditation of Schools, Colleges and Universities in the USA originated in the 1800's. There is no Federal Ministry of Education or other centralised authority exercising national control over educational institutions. Although the States exercise quite a lot of control over post-secondary education, great reliance is put on the self improvement and self regulating process of voluntary accreditation. There are two categories of educational accreditation: Regional accrediting bodies and Specialised accrediting bodies.

The Council on Post-Secondary Accreditation (COPA) supports, coordinates and improves all non-governmental accrediting activities conducted in the US at the level of post-secondary education. It is governed by a Board of 36 persons and evaluates the post-secondary educational accrediting activities of institutional and professional associations. It represents approximately 7000 colleges, universities and professional programmes.

We consider two major accrediting bodies: the National Home Study Council and the National University Extension Association.

3.9 National Home Study Council (NHSC)

This was founded in 1926 and is an association of over 100 accredited private home study schools. It is recognised by the US Office of Education as an accrediting body.

The NHSC Accrediting Commission issues a set of Business Standards and accredited schools must comply with these standards. The Business Standards cover School and Course Promotion, Student Enrolment, Tuition Policies. Each of these is summarised below.

School and Course Promotion. The main points are:

(a) Advertisements and promotional literature must be completely truthful and clearly indicate that education and training, not employment, is being offered.

(b) Advertisements and promotional literature must show the name and address of the school and box numbers are not permissible.

(c) Letters of endorsement, commendation or recommendation may be used but only with prior consent and without remuneration.

(d) The use of classified newspaper advertising is limited to the categories headed "education", "schools", or "instruction".

(e) The word "free" shall not be used to describe any item or service regularly included as part of the school's courses and services. The word "guarantee" shall not be used by a school for advertising or promotional purposes.

(f) There are prescribed ways of using the fact of accreditation in letterheads, advertisements etc.

(g) Schools will not use the expression "VA approved" or "GI approved" even though students of the school are eligible for benefits from the Veteran Administration.

Student Enrolment. This part concerns agreements, admission policies and Field Representatives. The enrolment agreement must clearly outline the obligations of both the Institution and the student. The student must have a copy, showing clearly the terms of the school's cancellation and settlement policy. Admission policies are aimed mainly at ensuring that the student understands what is expected of him, that he is competent and qualified to take the instruction and stands a reasonable chance of completing it and that he understands what it will qualify him to do. Accredited institutions should not accept enrolments from those of compulsory school age (generally at least 17) until it has been ascertained that their regular work would not suffer.

Field Representatives are sales people who seek potential students for a particular institution and endeavour to enrol them on a course. Although they can provide a valuable link between school and student, there are obvious opportunities for abuse. The NHSC Business Standards therefore require that:

(a) the institution has full responsibility for the actions, statements and conduct of representatives; (b) the institution must keep representatives informed about courses, prices and terms, and operating policies; (c) the institution ensures representatives (agents) are properly licensed or registered as required by State law; (d) the institution must approve any advertising or promotion done by the representatives and must carry responsibility for it; (e) a field representative must not use a title which indicates he has a special qualification for guidance, counselling or registration if he does not in fact possess such a title.

Tuition Policies. The section on tuition policies covers two areas - course price and cancellation, settlement and collection. The main points are:

(a) Course Price. Price discrimination, except for group enrolments and special payment plans which are available to all students, is not permitted. Terms of payment may be varied but the net price must be the same for all persons. Special prices or discount offers must be bona fide and state the termination date.

(b) Cancellation, Settlement and Collection. Each school must comply with the following minimum policy:

(i) a student may cancel an enrolment within 72 hours and will get a full refund.

(ii) if a student cancels after the 72 hours "cooling off" period but before he has submitted the first lesson, the school is entitled to a registration fee of 10% of the fees or $50, whichever is less.

(iii) if, during the first 6 months, no lesson or written request for continuation is received by the school for 90 days the school must advise the student that cancellation will be made and the terms are clearly specified.

(iv) the cancellation and settlement policy of the school must be clearly acknowledged in correspondence about cancellation and settlement.

(v) collection procedures must reflect good taste and ethical business practices.

Procedures for Accreditation. The procedure consists of four main steps:

(a) a "Self Evaluation Report" which is submitted to the NHSC

(b) subject specialists then review the course material and make a report to the NHSC

(c) an examining committee is appointed to visit the school. It comprises education experts, management specialists, subject specialists and observers. A factual report is submitted to the Accrediting Commission.

(d) the accrediting commission checks the school's reputation, its integrity, its status with the Veteran's Administration, the FTC and the Better Business Bureau.

When this is complete there are four possibilities:

Accreditation, or Accreditation with stipulations which must be met by a certain time, or Deferral until more reports are made, or Denial, with a procedure for appeal.

The main features of accreditation are that: it is voluntary, it is non-governmental, it depends on peer evaluation, it strives to improve standards and to stimulate educational quality.

Since its inception, the NHSC has emphasised a threefold programme:

(a) creation of sound educational and ethical standards and enforcement of the same; (b) cooperation with Federal and State agencies in the development of sound legislative controls; (c) promotion of the general concept of home study.

Most Federal and State statutes and regulations recognise accreditation as a key criterion in determining a school's eligibility to participate in such programmes as the Federal Guaranteed Student Loan Programme and the Veterans Administration Educational Benefits.

The Accrediting Commission is recognised by the Office of Education as qualified to perform its function.

3.10 National University Extension Association (NUEA)

Many universities in the US offer correspondence courses as part of an extension study programme. The universities themselves are legally constituted by Acts of the State legislature and in many cases receive funds from the State. They are regulated by their own ordinances, rules or byelaws.

The situation of the University of Wisconsin is fairly typical and the following statements were received in reply to a survey (see Appendix B).

> "The University of Wisconsin was established through Act 4, Sect. 6 of the Wisconsin constitution and section 15.91 and subsequent sections of the Wisconsin Statutes.
>
> "Because the University of Wisconsin is supported by State funds allocated by the State legislature, the Governor and the legislature have the right to inspect Independent study facilities and evaluate the quality and cost of instruction, or to appoint a person or committee to do so.
>
> "Wisconsin Statutes S.100.18 prohibit deceptive advertising."

As far as advertising is concerned universities are subject to all the normal consumer legislation and standards of practice. In addition some have their own strict standards and in any case, if they are accredited, will be bound by the NUEA Standards.

Most universities consider an enrolment form as a binding contract and many will not enrol a student until the fees are paid in full. Where a student drops out early in a course refunds are frequently made for as much as 90% of tuition fees.

The NUEA has a division which specialises in independent study. A set of standards is laid down which act as guidelines:

> "for conducting and for improving the quality of programs represented in the Division of Independent Study of the National University Extension Association and to assist in the internal and external evaluation of these programmes."
>
> "They are standards toward which independent study programmes should strive."
>
> Source: Official Statement

The standards cover eight main areas: Philosophy, Mission, Administration, Staff, Faculty, Instruction, Services, Research and Evaluation. The most important principles are summarised below:

Mission. The independent study programme should be conducted in accordance with a basic mission statement and the policies and regulations of the independent study unit should be clearly and publicly stated.

Administration. The programme should have an administrator who has the responsibility for defining procedures and who has sufficient authority to carry them out effectively.

Staff. There should be sufficient staff of the right calibre. Compensation of independent study staff should be comparable with that of other institutional personnel.

Faculty. Teaching faculty should have demonstrated competence in the subject they teach and should have a sympathetic understanding of independent study methods. Part-time faculty should meet the same standards as regular faculty. Compensation should be equitable, fair and comparable to national levels of compensation. There should be positive institutional recognition of faculty participation in independent study activities.

Instruction. Instruction should be related to the objectives of each course, to the unique needs of students, and to general institutional standards of quality. These standards should be maintained jointly by the academic department and the independent study unit. The quality of the instruction should be fully consistent with that maintained in the institution and the content of an independent study course offered for academic credit comparable in scope and depth to that of the equivalent course taught in residence. Assignments should be evaluated and returned to students within a stated time and with appropriate comments. All possible safeguards must be taken to maintain the integrity of examinations.

Services. Direct services to students should include, but not be limited to:

(a) information about libraries, and other resources
(b) special resources (kits, books etc.)
(c) counselling and advice
(d) flexible scheduling of examinations
(e) special arrangements to meet unusual individual needs whenever possible.

Adequate and complete records of all student work should be securely and confidentially maintained. There should be an equitable fee structure and pro rata refund policy which is clearly stated, well publicised and closely followed.

Bulletins of information, advertising and promotional publications should be truthful, clear and precise so that students can understand course requirements and objectives, admission requirements, credit to be earned, how credit can be applied, fees and refund policy.

Evaluation. Students should be given the opportunity to evaluate the courses, policies and procedures of the independent study unit.

3.11 Veterans Administration

The Veterans Administration has the authority to allow eligible veterans and active duty servicemen to use their educational benefits for a home study course. Regulations have been developed governing the types of courses which veterans may pursue and specifying the requirements which schools must meet in order to participate in this programme.

Existing legislation contains, for example, specific refund policies and course subject limitations. Together with other requirements they ensure that schools do not abuse their privileges to participate in the Veterans Administration Programme.

Its regulations affect both the public sector and the private sector, whereas the FTC is concerned solely with the private sector.

3.12 Summary

At the present time the Federal Government, spurred on by private consumer bodies, is trying to impose more and more regulation on the private colleges. The FTC has proposed stringent regulation on "advertising, disclosure, cooling off, and refund requirements concerning proprietary Vocational and Home Study Schools." (File No. 215 - 38). The problem is that it is almost impossible to regulate without creating anomalies, injusticies and increasing the cost of education. Moreover, with each of the 50 States imposing their own requirements, it is difficult to reconcile the different approaches and achieve uniformity, without creating great uncertainty and conflicts for the institutions.

The NHSC has prepared a detailed criticism of FTC proposals and has argued on the basis that the FTC has exceeded its powers. In an important case in 1974, Heater v. FTC (F.2d. Civil No. 73-1750) the court stated:

> "Consumer protection is an important task. However, the Commission's endeavours must be limited to the exercise of its powers granted by Congress. If there exists a deficiency in the Act, the cure must come from Congress, not by judicial enlargement of the statute."

The NHSC submission concludes:

> "In sum, far from preventing deception and unfairness, the Commission's proposed Rule may result in substantial impairment of the valuable educational resource of home study ...
> Indeed, some of the requirements of the proposed Rule are so unprecedently harsh and negative in their impact on both schools and students that we can only wonder whether the real purpose of the proposed Rule is to destroy home study education rather than to protect the consumers."

In spite of opposition to the proposed rule the NHSC affirms the important principle governing the regulation of correspondence education in the US:

> "NHSC pledges its continued cooperation to the Federal Trade Commission in helping to identify those problems in the home study field which may be a legitimate subject of the Commission's concern and in helping to develop feasible solutions for these problems which will prevent deception and unfairness while enabling home study schools to offer better quality education to the millions of students who are served by them."

The bulk of legislation and regulation is designed to control the private colleges. Its effectiveness depends on establishing a trusting relationship between government bodies, State bodies and the colleges themselves in order to offer both protection to the student and, at the same time, ensure a flexible and innovative system of education.

As far as university correspondence education is concerned it is fairly clear that the regulatory system depends very much on three things. First, the creation of universities is a State function and therefore a matter of the public interest. Consequently universities are self-regulating in their educational standards and business methods. Second, the universities have to conform to standards imposed by the accrediting commissions. Finally, the universities are not outside the field of consumer law and consumer bodies at either Federal or State level, especially with regard to advertising and contractual relationships.

Chapter 4

France

4.1 Introduction

From the Middle Ages to the time of the Revolution (1789) the main influence on education was the Church. At the time of the Revolution more than half the male and three-quarters of the female population were illiterate. The right to education by all citizens was proclaimed in 1791 but it was many years before this became a reality. The major developments in education took place after about 1800 and were as follows:

In 1881/82 Primary education was made free, compulsory and conducted by lay bodies. In 1919 Technical education was created. In 1933 Secondary education became free. In 1963 "Colleges d'Enseignement Secondarie" (comprehensive schools) were created. School leaving age was raised to 16. In 1968 a Higher Education Act introduces multi-disciplinary studies, autonomy and participation.

Since 1974 the Ministry of Education has controlled primary and secondary education. Higher education is controlled by the Secretariat d'Etat aux Universites, which operates quite independently of the Ministry of Education.

Education in France is governed by five general principles: First, schooling is compulsory between the ages of 6 and 16 for all children resident in France. Second, State education is free of charge. Third, since the separation of Church and State in 1905, education has been neutral in religious, philosophical and political matters. Fourth, the State schools do not have a monopoly of education and there are private establishments created by individuals, associations, professional bodies and religious organisations. Finally, the State has the sole power to award national qualifications and with the exception of certain technical diplomas, the qualifications awarded by private institutions are not officially recognised.

For educational purposes France is divided into 25 regions known as "academies", each of which covers several departments and is headed by a "recteur" appointed by the Minister of Education. The "recteur" supervises services and co-ordinates the various sectors of education.

The educational system is highly regulated and is subject to inspection by national and regional bodies. In addition, many councils, committees and commissions are appointed to advise; the most important are the Higher Council of National Education, the councils of the academies, and departmental councils of primary education.

Secondary education is divided into two cycles which takes children to the minimum school leaving age. At the end of this period they will have completed either a general or technical course or a vocational course. The course of study is essentially the same whether it is conducted in a state school or private school.

Higher education is conducted at four levels and administered by the State Secretariat for Universities; these levels are: (a) Universities, (b) Grands Ecoles, (c) Instituts Universitaires de Technologie, (d) various research organisations.

4.2 Correspondence Education

Correspondence education is conducted by both the public and private sectors in France. The types of organisations offering correspondence courses can be divided into:

- The Centre National de Tele-Enseignement (CNTE) which is a State organisation and operates from six centres. It offers courses in elementary, secondary, technical and vocational subjects, and degree courses.
- Private profit-making colleges and schools which cater for studies in the same disciplines as offered in the public sector.
- Seventeen universities which offer courses leading to degrees.

4.3 Regulation and Legislation

There are four kinds of regulation and legislation which affect the conduct of correspondence education. First, there is that concerning the existence and conduct of the Centre National de Tele-Enseignement. Second, there are a number of laws decrees which apply specifically to private correspondence institutes. Third, there is the legal structure which allows universities to offer correspondence courses. Finally, in an all embracing way there is consumer protection which is provided by private associations and government departments, including syndicates of correspondence institutions.

It is important to remember that in France the State framework of education is very important and there is direction and control at the highest level of government. Most of the legislation which is concerned with correspondence education is directed at the private sector and we shall concentrate on this because it is a good example of how the State has attempted to control the activities of private correspondence education.

4.4 Centre National de Tele-Enseignement (CNTE)

The CNTE is a State institution which specialises in distance education by correspondence, television, audio visual etc. It was instituted as the Centre National d'Enseignement par Correspondance (CNEPC) by law in 1944 and given the status of a "lycee" (secondary school). The decree of 30 May 1944 states:

Article 2: "The administrative personnel, teaching staff and service personnel of the CNEPC are recruited from officials and agents of lycees and colleges as circumstances make possible."

Article 4: "Students of the CNEPC are relieved of tuition fees of day school claimable from students of the lycee."

For higher education: under the direction of the higher education department. For secondary education: under the direction of the secondary education department. For technical education: under the direction of the technical education department. For primary education: under the direction of the primary education department. The inspection of staff is ensured by the inspectors of each education department. The appointment to the CNTE is made on the advice of a special commission constituted within the framework of each education department, by order of the Ministry of National Education."

The Ministry of Education sometimes specifies the type of courses to be produced and their method by which they will be taught. For example, a directive from the Ministry to Recteurs, Regional Education Inspectors and Departmental Inspectors of National Education in 1970 introduced a correspondence course for primary teachers in "contemporary mathematics"

> "This course, based on a manual, will comprise 24 series of explanatory documents complete with self-correcting exercises and 6 series of exercises which will be corrected by professors of the CNTE."

Since 1974 the CNTE has been under the administrative and financial control of the Centre National de Documentation Pedagogique (CNDP). The CNDP, which is a department of the Ministry of Education, has responsibilities throughout France is three main areas: teaching (through the CNTE); educational materials, supplies and methods; and the design, production and diffusion of audio visual methods.

In summary, the CNTE is part of the State education system and subject to inspection and control in academic matters by the State inspectors; its standards are the same as for any other State school but it has freedom to develop its particular methods and expertise.

4.5 Legislation concerning the private sector

Since 1970 there has been increasing legislation about the conduct of private correspondence colleges. The main pronouncements have been made in the following laws:

(a) Law no. 71-556 of 12 July 1971 titled "Creation and operation of private organisations offering private correspondence courses, publicity and selling techniques used by educational establishments".

(b) Decree no. 72 1218 of 22 December 1972 titled "Creation, operation and control of private organisations offering correspondence education".

(c) Decree no. 72 1219 of 22 December 1972 titled "Advertising by educational establishments".

In addition, there have been numerous guidelines ("circulaires") issued which support and explain the legislation. Some of the legislation concerns all kinds

In the 1950's its activities were extended to include technical education (Circulaire of 8 July 1949 "Creation in the CNEPC of a commercial and industrial technical department"). This memorandum also stated that there could be no competition between the normal schools and the CNEPC. It reaffirmed the principle that the CNEPC exists to provide education for students who are, in some way, left out of the normal educational system. All changes in the administration or structure of the institution are made by the Ministry of Education. In the 1950's the CNEPC was authorised to conduct primary education for certain groups of disadvantaged students (Circulaire of 23 February 1954). The responsibilities of the CNEPC were also widened to include courses in teacher training. In 1951 a law was passed which opened up possibilities to use radio and television for education:

"The CNEPC is authorised to give assistance to the Centre National de Documentation Pedagogique and to the Radio Network (Radio diffusion) and French television services for the organisation of education by radio and television."

Arrete: 27 February 1951

From 1953 the CNEPC became known as the CNTE.

The decree number 59.610 of 4 May 1959 marked a turning point in the history of the CNTE. There are five main articles:

Article 1 brought the services of the correspondence department and those of the radio and television department together. (1)

Article 2 specified the tasks of the CNTE in the field of primary education, secondary education, and technical education:

"The Centre may, on the other hand:
Give assistance to the organisation of courses of higher education by correspondence, radio and television, in particular for the preparation of the competitive examination for the recruitment of personnel in higher education. Organise post-graduate education notably for the promotion of work."

Article 3 specified the organisational structure and in particular describes a Management Council (Conseil de Direction) whose composition is fixed by law by the Ministry of Education and is attached to the Director of the CNTE(2); it gave advice on pedagogic organisation, creation of chairs and courses and organisation of studies; organisation of services; social functions; public relations; all questions concerning the CNTE submitted for examination, by the administrative council of the Institut Pedagogique National.

A special commission can be set up by order of the Ministry of Education to study particular questions about the levels of education.

Article 4 concerns financial responsibilities.

Article 5 stated: "The teaching staff are allocated temporarily to the Centre... and continue to be:

(1) These departments later separated
(2) The Conseil de Direction was later dissolved

of private teaching establishments and some specifically concerns correspondence colleges. Each of the laws is summarised below.

4.6 Law no. 71-556: "Creation and operation of private organisations offering distance education, publicity and selling techniques used by educational establishments".

The main provisions of this law, which applies to all forms of private correspondence education, are:

Article 2. The creation of private correspondence colleges is subject to notification (i.e. they must be registered). Notification is to the recteur of the academie.

Article 3. Private correspondence colleges are subject to educational supervision of the Ministry of Education and of ministries concerned with their formation. They are, in all cases, subject to the disciplinary powers of the academic council. Members of the inspection team can make criticisms and suggestions to these colleges; they can moreover summon them before the academic council (Conseil Academique).

Article 6. Management and academic staff must conform to standards of morality, possess diplomas, titles and provide references.

Article 7. Certain people are prohibited from any connection with a college, e.g. criminals, people barred from teaching etc.

Article 8. The conditions under which correspondence education is given to students are stipulated in the contract especially those concerning tuition services, study schedules, work for correction and the correction of that work. Contracts that do not satisfy these conditions are void. There must be annexed to the contract the study plan, which will include indications of the level of previous knowledge required, the level of the studies, their average duration and the uses for which they prepare the student. Any necessary books, objects or materials should be accounted for separately. If these terms are broken the contract is nullified.

Article 9. The contract will not be valid unless there is a delay of 6 days after the student has received it. The contract can be cancelled by the student or his legal representative if, due to unforeseen circumstances, it is impossible to follow the correspondence course. In this case the cancellation gives rise to no liability.

Up to 3 months after the contract starts it can be unilaterally cancelled by the student. In this case liability should not exceed 30% of the contract price, excluding any materials. Any payments the student has already made are not included in the 30%.

Books, materials etc. which the contract required the student to have and which have been effectively delivered at the date of cancellation remain acquired at the value in the contract.

He cannot pay in advance more than 30% of the stipulated price, extras not included. For courses lasting more than twelve months the 30% is calculated on

the price of the first academic year as indicated in the study plan. The contract must reproduce the contents of this article and cannot exclude the terms of this article.

Article 11. Private education organisations must indicate in their names that they are private. Private educational bodies must be registered.

Article 12. All advertising must be shown, prior to publication, to the Ministry of Education.

Advertising must do nothing to mislead candidates as to the level of education they should have attained, the nature of the studies, their average duration and the careers to which it can be put.

A period of 15 days must elapse after submission before advertisements are published.

This does not rescind other laws referring to advertising: Loi 1 August 1905, Loi 26 March 1930, Loi 2 July 1963, Article 405 of Penal Code. (1)

Article 13. It is forbidden to canvass for sales or use sales representatives. This means that they may not go to the homes of individuals or to their places of work in order to obtain a contract.

Article 15. The "conseil academique", acting in a disciplinary manner on facts with which it is satisfied following an inspection, can pronounce for a year or more the prohibition of directing and teaching so as to close the establishment, or can impose one of these penalties only. (A list of penalties includes fines and imprisonment).

4.7 Decree no. 72-1218 of 22 December 1972. "Creation, functioning and control of private organisations giving distance education". The main provisions are found in parts II, III, IV and V.

Part II: Creation of Organisations.

This section specifies that colleges must declare themselves to the recteur of the "academie".

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(1) Article 405 Penal Code states:

"Any person assuming a false name or identity, or using deceptive means, so as to induce belief in fraudulent ventures, or of fictitious power or credit, or to suggest hope or fear of success, accident or other imaginary event, and obtains or attempts to obtain any money, movables or obligations, releases, notes, promises, or receipts and by any such means shall swindle or attempt to swindle another out of his property in whole or in part shall be punished by jailing or fine.

"Any person who commits such misdemeanour by floating a public issue of stocks, bonds, shares or other negotiables, of any entity or industrial or trading enterprise, shall be punished by imprisonment... "

Article 5. The declaration must show the denomination and the address of the organisation, as well as the qualification and domicile of the signatory.

The declaration must in any case show as annexes/appendices lists of the directors, and teachers, accompanied by the details mentioned in articles 10 to 12, the list of courses the organisation proposes to offer, the teaching programmes with, for each one, the description of the teaching methods, materials and didactic works recommended to or provided for students and also the frequency of lessons.

(Also, in the next article, article 6, details of any face-to-face tuition must be given).

Article 8. No private organisation can operate correspondence education before obtaining the prior acknowledgement of the preceding article.

Part III: Conditions required of directors and teaching staff

Article 10. Requires directors to submit to the 'Recteur' of the area in which the organisation is based certain details e.g.

(a) records of any punishments within the past 3 months; (b) certified copies of diplomas, titles and references (as laid down in article 11) required to conduct or teach in a correspondence organisation; (c) a statement of the places of residence and of professional activities performed during the previous five years.

When courses are not under the sole control of the Ministry of Education the recteur must inform the representative of the ministry concerned.

Article 11. Diplomas, titles, references demanded for teaching in a private correspondence school cannot be less than (when the same courses are offered in the public sector) those required for teaching in public schools at the same level.

In order to direct/manage a private correspondence school it is necessary to show, apart from diplomas, titles, references demanded for teaching in the organisation, five years of teaching experience in any school or college.

Article 12. Special requirements are made concerning foreigners who wish to direct a correspondence school.

Part IV: Control and Inspection

Article 14. Control of private schools depends on: (a) conformity with the requirements of the declaration concerning the programme of study; (b) regulations about directors and teaching staff (see articles 6 and 7 of Law 71.556 and part 3 of Decree 72.1218); (c) adequate numbers of teachers in relation to students; (d) the pedagogic methods used for carrying out the teaching programmes; (e) the way in which the programme is managed, e.g. the sending to the student of all documents and corrections of his work; (f) the premises used for student meetings, to make sure that these premises conform to the rules of hygiene and security and that they contain adequate teaching aids and equipment for practical work in accordance with the number

of students; (g) when the organisation benefits from public funds, control is exerted through the conditions of its financial administration.

Article 15. Requires a daily register of students and courses for which they are enrolled.

Article 16. Requires inspection to be carried out by an inspection team from the Ministry of Education and by people from departments which teach the subjects offered by the correspondence college.

Article 17. The comments and recommendations which the inspectors or teachers make are notified to the interested parties through the intermediary of the recteur after agreement if necessary with the representative of the ministry responsible for the type of education concerned.

Part V: Contracts

Article 18. The contract anticipated in S.8 of law 771-556 specifies the character and the frequency of all kinds of work which are proposed to the student in each of the disciplines making up a course; it shows the way in which pedagogic assistance is assured, the methods used, the control exercised, the way in which teaching directives are communicated and the way in which the student is informed of the results of his efforts; it shows the names, and qualifications of the teachers responsible for the moulding of the student. The contract contains, as necessary, the list of books, course and didactic material of all kinds which the student will be obliged to procure, subject to payment, also the price and method of payment.

Article 19. Specifies that the contract must contain a plan of studies, which must include the nature and content of the course, the amount of work required, the level of previous knowledge, the average length of the course.

Article 20. Requires that course requisites must be up to date and details of books must be given.

Article 21. Requires that where a course lasts more than 12 months the amount charged for the first year must be related to the amount of teaching in that year.

Article 22. Requires that the contract is clearly written and easy to read. Any exclusions must be clear. Details of cancellation and refunds must be included at the end next to the signature space.

Article 23. Requires that the plan of agreement including the plan of studies annexed to it, is sent to the applicant by registered letter, in duplicate, signed by the legal representative of the school. The contract is returned by the subscriber.

Article 24. The amount due cannot exceed the total price liable to be paid under article 9 of Law 71-556. The subsequent instalments take place on the condition fixed by the contract. However, during a period of three months after the contract is completed these instalments cannot be concluded so as to constitute,

to the advantage of the school, a higher provision of indemnity that the organisation can, in application of article 9 of the aforementioned law, eventually reclaim to the subscriber, in the case of cancellation.

Article 25. Contracts cannot contain clauses which exclude the articles of law laid down.

Article 26. In case of unforeseen circumstances as mentioned in law 71-556, the student or his legal representative notifies the cancellation, giving reasons, to the school by registered letter.

In the event of no reply by the school the cancellation takes effect eight days after the letter is received. The school must refund money paid by the student.

Article 27. If he wishes to exercise the right of cancellation the student, or his legal representative, notifies the cancellation to the correspondence college, without being obliged to give reasons, by registered letter with a demand for an acknowledgement of receipt.

The cancellation takes effect from the date the letter is received by the college. The college must refund sums paid by the student or paid for him by a third party, or paid by a credit company, which it holds as a deposit or an advance and which exceeds the maximum value of services so far given, so as to comply with the indemnity provided in article 9 of Law 771-556.

4.8 Decree no. 72-1219 dated 22 December 1972: "Advertising by Educational Establishments".

Colleges must submit advertising material to the recteur of the academie in which they are based. The documents submitted must include kinds of advertising and promotion, e.g. brochures, advertising copy etc. It must be made quite clear in advertising material that the organisation is private. Photographs must conform with a certain specified size.

Summary

The laws which concern the private correspondence colleges are mostly concerned with four main considerations. First, private colleges must be registered and are subject to all the educational control of the Ministry of Education which affect other educational organisations. They are required to be inspected. Second, there are clear rules as to who can operate a private college in both a management capacity and a teaching capacity. Third, the form of contracts and the contractual relationship between school and student is specified. Particular attention is given to the payment of fees and refunds of fees. Fourth, advertising and selling methods and procedures are regulated.

4.9 University based Correspondence Education

Universities provide distance education to those who are prevented from attending a university full-time. Courses employ television, radio, cassettes, correspondence texts, seminars. Students are admitted to courses in the same way as full-time students, i.e. they must enrol with the university. In addition

they must show proof that they are unable to follow regularly the normal courses; normally an employer's attestation, medical certificate or distant address will suffice. Control over students is exercised by requiring work to be submitted and by attendance at seminars. Universities in France are under the control of the State Secretariat for Universities and are funded from public funds. Although courses are advertised there is no direct selling and the fees are nominal.

4.10 Consumer Protection

This can be divided into three kinds. First, the public organisations which include the Office of Consumer Information and Protection, the Service of Fraud Repression and quality control, the National Institute of Consumption, and the National Committee of Consumer Affairs.

Second, there are trade organisations of which the most important is the Bureau de Verification de la Publicite. This body operates in much the same way as the Advertising Standards Authority in the UK (see chapter 2).

Finally, there are private organisations. These can be divided into: (a) Nationally established organisations; (b) Regional organisations of consumer associations. The former, of which there are at least nine, vary in their objectives and structures; some are exclusively concerned with consumer interests while others are mostly concerned with the defence of family interests. Most publish periodicals or reports on products and services.

The prime role of the regional associations is to provide truthful and full information on the goods and services available on the market.

Although there is no system of accreditation in France there are several private organisations of correspondence institutions which offer protection to students. The most important are the Chambre syndicale francaise de l'Enseignement prive par correspondence (CHAFREC), the Syndicat national de l'Enseignement par correspondence (SNEC) and the Syndicat national de l'Enseignement a distance (SNED).

CHAFREC, as an example, has 20 member institutions and publishes a Code of Professional Duties to which members must adhere. This code is in addition to the legal requirements and in certain areas imposes more strict standards. It covers four subjects: (a) standards of recruitment e.g. advertising, promotion; (b) administrative standards e.g. nature of the institution, responsibilities of management and teachers, conditions of membership; enrolment of students, acknowledgement of enrolment, certificates; (c) academic standards e.g. study plans, course material; (d) academic assistance e.g. correction of lessons. Finally CHAFREC will act as an arbitration body.

4.11 Summary

The legislation concerning correspondence education in France was introduced to prevent a number of abuses which were prevalent amongst certain institutions. In memorandum no. 71-423 (dated 17 December 1971) titled "Pedagogic Control" and addressed to the recteurs, the purpose of the legislation was stated:

> "to safeguard the interests, both material and spiritual, of an increasing number of students or potential students, and its object is to ensure that the education gives guarantees of seriousness and efficiency."

From discussions with two of the leading and well established institutions[1] the main effects have been threefold. First, certain unscrupulous schools have been eliminated because they could not comply with the regulations. Second, the student is less subject to exploitation through promotion and selling techniques and is clearly informed of the contractual terms under which he enrols. Third, although the legal requirements seem to be onerous in practice they have not harmed the serious and efficient institutions. Those institutions which are able to cope with the administrative demands of the law have survived at only a small extra cost to the student.

The overall control of the quality of education remains with the State but there is minimal interference for institutions which themselves set high standards.

(1) Francis Lefebvre and L'Ecole Chez Soi.

Chapter 5

India

5.1 Introduction

The development of education in India has been dominated by three factors. First, an indigenous system which existed up to the beginning of the 19th century, and had two important characteristics: (a) it was based on a feudal society consisting of several classes and a very large number of castes and tribes; and (b) it was formulated around religious institutions; for most of the population it consisted only of vocational education.

The second factor was the effect of the British presence from 1800, on the political, social and educational structure of the country. Although the British were, at first, reluctant to be involved in education, by the middle of the century a pattern of education for the native population had evolved which was characterised as follows: (a) the central purpose was to impart Western learning; (b) English was the sole medium of instruction; (c) education of a few people in the universities was considered more important than education for the masses; (d) the universities were concerned with English culture and designed to produce administrators; (e) primary education was minimal and secondary education geared to serve the university system.

But in spite of this broad picture, by 1947 there had been some significant achievements; nineteen universities and nearly 12,000 schools at secondary level had been established; teacher training had been greatly improved in both quantity and quality; there were nearly 135,000 primary schools and some States had introduced compulsory education. A start had also been made in providing vocational education at the secondary level, mostly in engineering and technical subjects. Finally, the Indian languages were becoming the universal medium in secondary schools.

The third, and most important factor, was the granting of independence in 1947, after which education was allowed to develop on a national basis. Since 1947 a major commitment has been made by the Government to improving educational standards for the mass of the people. According to the 1951 census, only about 17% of the population was literate. Today this figure is nearer 30%, although still low by international standards.

The main developments over the past 30 years have been: (a) the requirement, written into the Constitution, that education to the age of 14 be compulsory; (b) a commitment to mass education at secondary level using whatever methods were feasible; (c) a series of Five Year Plans which have embodied plans for increasing the literacy rate; (d) high priority has been given to teacher training; (e) increasing adoption of native languages; (f) emphasis on vocational and especially technical education, so that standards of living can be raised; (g) emphasis on part-time and correspondence education at the university stage and also at the secondary stage.

5.2 Correspondence Education

Until a few years ago correspondence education was provided by both the private sector and the public sector. However, the influence of the private sector is understood to have declined and because the qualifications offered by private institutions are not recognised, most students study with universities. We shall therefore concentrate on understanding the regulation and legislation affecting this sector of the education system.

The background to university based courses starts with a report of the Education Commission (1961-64) "Education and National Development". In a survey of future requirements it stated:

> "There must also be a method of taking education to the millions who depend upon their own effort to study whenever they can find time to do so. We consider that correspondence or home study courses provide the right answer for these situations." (Section 17.44)

Today 13 out of 100 universities offer courses in general degree subjects and 2 agricultural universities offer special courses. At the secondary level one institution offers courses. In total about 1 million students study by correspondence.

In considering the regulation and legislation of correspondence education by the universities there are three topics. First, the legal Status of the Universities. Second, the role of the University Grants Commission. Third, whatever consumer protection exists for students.

5.3 Legal Status of Universities

There is no 'education act' in India which specifies a legal structure for education. The responsibility for education is divided between the Government of India and the States, and there are important references in the constitution to the various responsibilities.

(a) Entries 63, 64, 65, 66 of List 1 of the Constitution give a list of Union functions (Union refers to Central Government) and these are:

Entry 63: "The institutions known at the commencement of this constitution as the Barraras Hindu University, the Aligarh Muslim University and the Delhi University, and any other institution declared by Parliament by law to be an institution of national importance."

Entry 64: "Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance."

Entry 65: "Union agencies and institutions for
(a) professional, vocational or technical training, including the training of police officers; or
(b) the promotion of special studies or research; or
(c) scientific or technical assistance in the investigation or detection of crime."

Entry 66: "Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions."

(b) Apart from the above responsibilities, the States have responsibility for education as defined in List II, entry 11, List of State Functions:

"Education including universities, subject to provision of entries 63, 64, 65 and 66 of List I and entry 25 of List III."

List III is a list of small concurrent functions and entry 25 specifies "vocational and technical training of labour."

Each of the 17 States creates universities by an Act in the State legislature. The situation is well stated by the following statement from the Punjabi University:

"The university has a legal basis and the Directorate of Correspondence Courses is part (an extension of) the University. The Directorate of Correspondence Courses does not have a separate legal basis ..."

Source: An Enquiry into Correspondence Educating Processes, Ripley Sims

The Punjabi University for example was created by the Punjabi University Act 1961, and is funded mostly from public funds, although students do pay nominal fees.

5.4 The Role of the University Grants Commission (UGC)

Although the universities, as autonomous bodies, may start correspondence courses without any reference to central or State government, in practice they do rely on funds from the UGC and hence observe whatever guidelines the UGC suggests.

The UGC was established in 1956 and is an autonomous and statutory body responsible for the maintenance and coordination of standards of teaching, research and examinations in the Indian universities. It has developed a particular interest in correspondence education and exercises control over the conduct of correspondence institutes in two main ways.

First, it tries to ensure through discussion and persuasion that the schools and institutes maintain reasonably high standards and provide adequate service and facilities to the students enrolled. Second, the Commission provides grants for the appointment of core staff, the preparation of instructional material, the evaluation of response sheets, the conduct of contact programmes and the purchase of books and journals.

The UGC has prepared guidelines for the conduct of courses which universities receiving funds are expected to observe. These guidelines fall into 9 categories: Which universities should offer courses? Preparation of material; Response sheets; Study centres; Contact programmes; Staffing levels; Application of UGC funds; Rotation of staff; Selection of teachers and norms of work.

Who should offer what? The guiding principle is that, at the Undergraduate level, correspondence courses should be introduced by only one university in the State. An exception may be made where one university has already achieved an optimum number of enrolments and additional facilities are required. Courses at postgraduate level should only be offered when the University has had 3 years experience of operating undergraduate courses and the programme has been fully worked out according to the UGC guidelines.

Correspondence courses should be started only by universities which have well established teaching departments, noted for their high standards.

Preparation of material. Lessons should be written by the best available persons individually or in teams of 3 or 4 selected either from anywhere in India or at least from anywhere in the State. Those involved should have experience of teaching the subject for at least five years.

This panel of lesson writers should be drawn up by subject committees, each committee consisting of 7-9 members with representatives from (a) the university department, (b) the teaching staff of the Institute in that subject; (c) the teachers of the subject in the affiliated colleges.

The Director of the Institute of Correspondence Courses should be the convenor of the committees.

Suitable remuneration should be paid to writers and all lessons should be reviewed and edited. Revision should take place at least once every three years or otherwise required by syllabus changes, feedback from students etc.

Response Sheets. It should be compulsory for every student to return a certain number of response sheets, say 20 every year spread over the subjects studied. A student should not be allowed to take examinations unless he has submitted the minimum number and achieved a satisfactory grade.

If a student fails to submit the required response sheets during the first two terms or his performance is not satisfactory, the correspondence course should be cancelled and the student required to appear privately.

Response sheets should be designed to accustom the student to examination questions and conditions.

After correction, response sheets should be returned to the student promptly within a stipulated period. The student should know in advance how much time should elapse between sending in response sheets and receiving his corrected work.

The purpose of response sheets should be to ensure: (a) that the student has understood and absorbed the course units sent to him; (b) that he knows how to organise the material; (c) that a prompt return of the sheet will enable him to improve his performance; (d) that he studies continuously throughout the year.

Some of the sheets should contain multiple-choice type questions. Answers may be provided later.

Students should achieve a satisfactory grade in order to be eligible for the examinations. At least 10% of the response sheets should be sample checked in the Institute to ensure that these are being properly evaluated. The Institute should maintain for each student a systematic record of lessons sent, response sheets received and sent back and grades given.

Finally, at the postgraduate level students may be asked to write at least 5 essays in lieu of response sheets.

Study Centres. There should be a study centre for every group of 500 students in an area. It should be equipped with library facilities and qualified part-time counsellors should be available to help students. Existing facilities, including part-time staff, in the universities should be open to correspondence students.

Contact Programmes. These should be an essential part of the education process and it is recommended that a two week contact programme be organised wherever there is a cluster of 200 or more students. In addition Sunday classes should be organised regularly at the headquarters.

At the postgraduate level there should be one orientation programme of at least 3 days and at least two contact programmes, each of 15 days duration for tutorials, seminars, discussions etc.

Staffing. Each correspondence institute should have a staff of one reader and one lecturer for the main subject at undergraduate level. There are recommendations as to the optimum staff levels for both the undergraduate and postgraduate level. It is also recommended that those responsible for a given subject are replaced every few years to encourage fresh approaches.

Application of UGC Funds. Grants for the introduction of correspondence courses at the undergraduate level should be earmarked for (a) contacts programmes; (b) study centres; (c) writing of lessons; (d) core staff and library facilities; (e) library facilities.

The UGC has Visiting Committees which go to the Universities and it is recommended that these committees review the development requirements of the Correspondence Institutes in the same way as they would review the requirements of other University Departments. In other words, the UGC requires correspondence institutes to have equal status with other departments.

Initial grants for the introduction of correspondence courses should be given for a period of five years and subsequent grants should depend on the assessment of the Visiting Committees. Thus the UGC can refuse to support institutes which it feels are not worthy or suitable for correspondence tuition.

A higher level of grants is available for postgraduate courses.

Selection of Teachers. Staff for Correspondence Courses should be seconded from the regular university teaching department for two or three years. During this time they should continue some teaching and research in their parent department.

Other staff may be recruited from outside the university, especially in order to meet seasonal fluctuations of the work load. Norms of work for teachers are also laid down.

Students are encouraged to change over from regular contiguous courses to correspondence courses, and this flexibility is highly desirable.

Finally the UGC will review the progress of correspondence courses in the light of the guidelines.

5.5 Consumer Law

India has not developed consumer law as, say, in the UK or the USA. The legal framework has been based on the English system but has a significant religious basis.

The question of what legal remedies a student consumer has against a university correspondence institute is a difficult one to answer. The only likely situations where this could arise are: (a) if the institute failed to correct lessons; (b) if the institute failed to issue lessons or update them; (c) if the student suffered some loss as a result of negligence by the institute.

In all these cases it is most probable that the institute would reach a satisfactory agreement with the student without recourse to law.

There is a presumption that, where education is offered by the State, it is satisfactory and the institutes appointed to administer the educational services are self-regulating. Certainly their powers and responsibilities will be written down in the form of a constitution or charter and within this framework a student can argue his case.

5.6 Summary

The UGC guidelines attempt to satisfy the need for the protection of students in four main ways.

First, although the universities do advertise their correspondence courses in newspapers, on the radio and in magazines, the universities have an obligation to admit only qualified students, i.e. those whose academic record suggests they will succeed in the course. The admission requirements are laid down in the ordinances of the universities. They include normally details of prior examinations passed, personal details, references. In this way doubtful students are eliminated, and if a student fails to complete the course successfully, the blame can seldom be laid on the Correspondence Institution.

Second, the UGC seeks to maintain standards by ensuring that correspondence institutes are staffed by knowledgeable and experienced teachers; that the administration of instruction is efficient; and that back-up tuition in the form of contact programmes is available.

Third, it has the power to finance new courses and thus stimulate certain areas of study. Equally it can withold finance from institutes which do not provide a satisfactory service.

Fourth, it seeks to integrate correspondence education with the regular full-time classroom type of course by requiring teaching staff to be seconded to the correspondence institute from the university. In this the correspondence institutes do not become divorced and alienated from the main stream of university education. As with many public sector teaching establishments there is not much leniency over the refund of fees. A survey of prospectuses[1] showed that only in one case out of eight was there a refund if a student dropped out after being accepted. In this case the student was obliged to cancel his enrolment within 7 days of remitting fees. In all other cases, where a student had been admitted and started to study, there was no refund upon cancellation.

[1] Prospectuses examined were from Universities of Bhopal, Meerut, Sri Venkateswara, Delhi, Bombay, Punjab, Utkal, Kurukshetra.

Chapter 6

German Democratic Republic

6.1 Introduction

The German Democratic Republic has been deliberately chosen as the last country to be considered in this study, for two reasons. First, it is the only totally socialist country to be considered and its political system has important bearing on the nature of its legal, economic and educational framework. Second, education in the GDR has a much more purposeful role in the society and correspondence education in particular has a particularly well defined role. These factors mean that we cannot look at the GDR in the same analytical framework as we have done for the USA, the UK or France, where there is an active private sector in correspondence education.

In this chapter we first of all draw attention to the concept and structure of education in the German Democratic Republic. The key characteristic of GDR society is a highly centralized and planned society:

> "The further construction of an advanced socialist society and the creation of fundamental prerequisites for the gradual transition to communism require special attention being devoted to improving the education of young people in the spirit of communism."
>
> General Secretary, Socialist Unity Party of Germany (SED), May 1976.

The second part of this chapter brings into focus the role of correspondence education as an integral part of the education system with a summary of how the student is protected.

Education is considered an important instrument of socialist policy and all citizens are now guaranteed, by the integrated educational system, the equal right to education as laid down in the constitution; educational privileges have been abolished. (Article 25 in the Constitution).

The educational system comprises:

(a) pre-school institutions; (b) ten grade secondary education known as polytechnical education; (c) institutions of vocational training; (d) educational institutions leading up to a matriculation standard; (e) engineering and technical colleges; (f) universities and other institutions of university status; (g) institutions for the training and further education of working people.

There are several distinguishing characteristics of the educational system:

(a) The objective of the State is to achieve "highly qualified socialist personalities". Education is the means to achieve this.

(b) The economic base of the country depends on scientific-technical progress. Education is an important element in the economic strategy.

(c) Education is considered a life-long process and obligatory for true socialist citizens rather than being a prelude to working life, and an option after the age of 18-20.

(d) The Education Act provides for uniform curriculum and facilities throughout the country.

6.2 Educational framework

The role of education in the GDR is well stated in a booklet "Education in a socialist country" by Professor Helmut Klein:

> "The socialist concept of education is therefore one of continuous study and further study beyond the confines of regular schooling, vocational training and higher education. Only in this way can it be assured that citizens are in a position to keep abreast of the rapid developments in technology, science production, culture and other spheres and continue to develop their personalities."

Also Professor Horst Mohle states in a paper "Postgraduate studies for university and technical college graduates as an integral part of the socialist educational system of the German Democratic Republic":

> "I would stress that training and further education have been conceived as integral components of the GDR's unified educational system and that further education is a continuation of training run on the same principles."

There are three important legislative bases to education: the Constitution, the Education Act and the Youth Act.

6.3 The Constitution. Article 25 of the Constitution states:

(1) "All citizens of the German Democratic Republic have equal rights in the acquisition of education. Institutions of learning are open to all. The unified socialist education system guarantees every citizen continuous socialist education, training and further education."

(4) "Compulsory education exists in the German Democratic Republic for a ten year period to be fulfilled by attendance at a ten year comprehensive polytechnical school. In particular instances this can be completed at a vocational training institute or an institute for the training or further training of working people. All young persons have the right and duty to learn a trade or profession."

Article 26 continues to define the educational opportunities open to all citizens.

(1) "The State ensures the possibility of transferring to the next stage in the educational system up to the institutions of higher education i.e. universities and colleges in accordance with performance, social requirements and taking into consideration the Social Structure of the Population."

(2) Education is free. Study grants and free educational aids are provided on the basis of social considerations.

6.4 Education Act. The Education Act, adopted in 1965, states:

Section 1

"It is the objective of the unified socialist system of education to provide a high standard of education for all people, resulting in the general and harmonious development of socialist personalities who consciously organise their social activities, transform nature and lead a decent, satisfying and happy life."

Section 7

(1) Government departments and institutions, social organisations and the individual family closely cooperate in socialist education. The establishments of the socialist education system as the centres of educational activity coordinate the various public, social and individual efforts being made in this sphere, especially the effects which productive work and the social, cultural and sporting activities of children and young people have on education.

(2) Teachers and educational staff bear great responsibility for achieving the aims and fulfilling the tasks set the socialist system of education. This demands a high standard of knowledge and skills and exemplary socialist conduct.

(3) Socialist enterprises and agricultural cooperatives are important educational establishments.

6.5 Youth Act. The Youth Act of 1974 imposes certain educational responsibilities on the young people, which are quoted below.

Section 18

"It is the task of all young people to acquire a high measure of knowledge and skill, to prepare thoroughly for the requirements of their job, to continually improve their knowledge, skills and talents and apply them for the good of socialist society. The socialist state shall guarantee young people a comprehensive education and create the necessary conditions in a systematic manner." CC

Section 21

(1) "The government departments and economic bodies, managers and executive boards shall ensure that apprentices are trained and educated to become class conscious, socialist skilled workers who are aware of their responsibility for further development of socialist society."

Section 22

(1) "Admission to study at an institution of higher and specialised education shall be a token of great social recognition and a personal obligation on the part of the student to the working class and the socialist state."

(3) "The sectors of institutions of higher education, the principals of technical colleges and their teaching staff shall be responsible for ensuring that students accomplish productive scientific work in diverse forms during their study."

6.6 The Role of Correspondence Education

As emphasised earlier education is considered a life-long process and adult education is especially important.

The aim is to make adult education open to as many people, of different ages, occupations and skills, as possible and correspondence or distance education is an important method of achieving this. For example, from 1960 to 1975 46% of all technical school leavers completed the course by means of correspondence education and evening courses. All post experience higher education (PEHE) is based on distance education.

In accordance with a planned socialist economy all correspondence education is conducted by State educational establishments; there are no private colleges. Hence, the basis of any control and regulation comes from within the educational system.

The first legal basis for college distance education was in 1950: "Order concerning the establishment of distance education for the working people." There are five main points:

(a) Great importance is attached to the fact that the correspondence student possesses enough practical experience in his chosen field of study so as to benefit from the course

(b) Courses combine home study, periods of face-to-face tuition, practical and laboratory work, written and oral exams. Written submissions are required by the student

(c) The maximum age for admission is 45 years

(d) Leave from places of work to attend courses and examinations is legally ensured

(e) The administration of courses is to be conducted by the universities and colleges.

Other regulations which have been introduced in recent years are: (a) "Regulation concerning consultation, application, selection and admission to direct and distance courses and evening courses at universities, colleges and technical colleges." (1966) (b) "Regulations concerning part-time study in the sphere of distance education and evening courses at colleges and technical colleges" (1962), and (c) "Regulations concerning distance and evening courses at colleges and technical colleges." (1973).

These three regulations are concerned mostly with the technical procedures necessary for admitting students to courses of study, ensuring they achieve a good standard of education in conformance with the needs of the State and their own abilities, and providing flexible schemes. Consultation centres are set up for students and business firms are required to assist and support correspondence students in their studies. Students may be released from work to attend instruction and prepare for examinations. The payment of fees is controlled.

Of course, correspondence students get the same rights, entitlements and safeguards under the Constitution, the Education Act and the Youth Act as other students.

6.7 Summary

Since the conduct of correspondence education is very much integrated into the total educational plan and is administered and financed by the State, it is not surprising to find that there is no legislation designed to "protect" students, since such legislation would reflect a criticism of the State itself. The legislation and regulations mostly concern procedures.

The right to education for everybody is enshrined in the constitution and the regulations, such as they exist, are designed to make the system work and ensure that the socialist objectives are attained. The maintenance of high standards of instruction and administration is achieved because of the integrated and uniform educational system, which is directly under the control of the highest executive bodies in the country. In this situation policies of consumer protection, regulation by licence and legislative control of correspondence teaching institutions are not necessary.

The main protection offered to the correspondence student is that he has equal opportunity and equal recognition with other students. In other words studying by correspondence is not considered inferior to other methods.

Appendix A

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Names and Addresses of Organisations

(a) United Kingdom

Open University
Walton Hall, Milton Keynes, MK7 6AA.

Council for the Accreditation of Correspondence Colleges
27 Marylebone Road, London, NW1.

Advertising Standards Authority Ltd.
15-17 Ridgmount Street, London, WC1E 7AW.

Wolsey Hall
Oxford, OX2 6PR.

Association of British Correspondence Colleges
5 Chiswell Street
London, EC.

(b) USA

National University Extension Association
One Dupont Circle, Suite 360, Washington DC, 20036.

National Home Study Council
1601 18th Street N.W. Washington DC, 20009.

Federal Trade Commission
Pennsylvania Ave. at 6th Street N.W., Washington DC 20580.

Universities of Missouri, Pennsylvania State, Wisconsin, Minnesota, California.

Education Commission of the States
300 Lincoln Tower, 1860 Lincoln Street, Denver, Colorado 80295.

Council on Post-Secondary Accreditation
One Dupont Circle, Suite 760, Washington D.C. 20036.

International Correspondence Schools
Scranton, Pennsylvania 18515.

(c) France

Centre National de Tele-Enseignement
60 Boulevard du Lycee, 82-Vanves.

Francis Lefebvre
15 Rue Viete
Paris 17

Chambre syndicale francaise de l'Enseignement prive par correspondence (CHAFREC), 59 Bd Exelmans, 75781 Paris.

(d) India

University Grants Commission
Bahadurshah, Zafarmarg, New Delhi, India.

Universities of Bombay, Bhopal, Delhi, Meerut, Panjab, Sri Venkateswara, Utkal.

(e) German Democratic Republic

Karl Marx University
Leipzig 701.

The Nature of Correspondence Education

The earliest methods of education relied mostly on the spoken word to impart knowledge and understanding from teacher to student. After the invention of printing in the middle ages, it became feasible to store information in books and disseminate it more widely. But this process benefitted only the more privileged sections of society and it was several hundred years later before large numbers of people could read printed matter.

In many societies it was the religious organisations which undertook the responsibility for education and they depended entirely on students coming together in a formal setting e.g. a classroom. Later the State took more and more responsibility for education but retained the method of classroom teaching as the main form of contact between teacher and student. There are several good reasons for this contiguous learning process. First it fits in with one overall objective of education - to bring people together in order to promote understanding, co-operation and interpersonal relationships. Second it is administratively easier to establish one place for teaching and to have students come there rather than for the teacher to go to individual students. Third, there is the advantage of pooled resources e.g. books in libraries, sports facilities, eating and sleeping facilities.

As literacy rates increased and higher education spread so the number of permanent institutions increased. Institutions are established to specialise in different levels of education - primary, secondary, higher, post-graduate.

However, it became apparent in the late 19th century that some people were not able to enjoy the contiguous learning environment, either for geographical, personal, academic or other reasons. In the USA, for example, a course of study in shorthand was advertised in 1728 whereby no attendance at classes was required; all tuition took place by mail. The idea was developed during the 19th century in the UK, Germany, Sweden, France and other countries, and it made available a wide range of studies to people who otherwise would not have been able to pursue them. In addition study at home, by correspondence, was sometimes preferred to class attendance by students.

It was not only private commercial organisations which developed the method. Increasingly universities and state institutions adopted correspondence tuition, especially for groups of people who had a particular disadvantage e.g. members of the military, people who started studying later in life than normal for a particular level or subject, those who had a job which did not allow regular contiguous tuition.

Thus the essential characteristics of correspondence education are:

(a) a student studies in his own time at a place of his own choosing.

(b) his studies are directed and controlled by an institution which communicates with him mostly by the mail.

(c) the student submits work to the institution which corrects it and advises the student of his progress.

Of course, there are other characteristics which vary between institutions. These mostly concern:

(a) whether the education is free, subsidised or paid for at a commercial price

(b) what additional teaching methods are used e.g. audio visual aids, occasional seminars or group meetings, television or radio transmissions.

(c) the use of different techniques for testing the achievements of the students e.g. self-check exercises, diagnostic testing.

The main advantages of correspondence education are:

(a) for the student: privacy and comfort, no time wasted in travelling, convenience, the emphasis on written communication, the chance to work at his own pace and not to lose continuity of study through absence or illness.

(b) for the national education system: cost effective education, the ability to choose experts in selected subjects to prepare material, a means of making higher education available to all who want it.

Correspondence education has been adopted in every advanced country and has played a valuable role at all levels of education in providing educational facilities to many different types of student.